

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
 FOR THE COUNTY OF YAVAPAI

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SANDRA K. HAKHAM, CLERK

BY: Jacqueline Harshman

STATE OF ARIZONA,)

Plaintiff,)

vs.)

JAMES ARTHUR RAY,)

Defendant.)

Case No. V1300CR201080049

Court of Appeals

Case No. 1 CA-CR 11-0895

REPORTER'S TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE WARREN R. DARROW

TRIAL DAY NINE

MARCH 3, 2011

Camp Verde, Arizona

(Partial transcript.)

ORIGINAL

REPORTED BY
 MINA G. HUNT
 AZ CR NO. 50619
 CA CSR NO. 8335

1 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
2 FOR THE COUNTY OF YAVAPAI
3
4 STATE OF ARIZONA,)
5 Plaintiff,)
6 vs) Case No. V1300CR201080049
7 JAMES ARTHUR RAY,) Court of Appeals
8) Case No 1 CA-CR 11-0895
9 Defendant)

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14 REPORTER'S TRANSCRIPT OF PROCEEDINGS
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MINA G HUNT
AZ CR NO 50619
CA CSR NO 8335

Mina G Hunt (928) 554-8522

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1 Proceedings had before the Honorable
2 WARREN R. DARROW, Judge, taken on Thursday,
3 March 3, 2011, at Yavapai County Superior Court,
4 Division Pro Tem B, 2840 North Commonwealth Drive,
5 Camp Verde, Arizona, before Mina G. Hunt, Certified
6 Reporter within and for the State of Arizona.
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PROCEEDINGS

(Partial transcript.)

THE COURT: The record will show the presence of the defendant, Mr. Ray, the attorneys, the jury. And the witness, Ms. Phillips, is back on the stand.

I just want to say, ladies and gentlemen, there are 17 of you now. And you're not to take any note or speculate or think anything about that. Just continue with your jury service, please. Thank you.

So, as I've indicated, the witness has been sworn.

Ms. Polk, please continue.

MS. POLK: Thank you, Your Honor.

DIRECT EXAMINATION (continued)

BY MS. POLK:

Q. Good morning, Ms. Phillips.

A. Good morning.

Q. I want to talk for a few minutes about October 8th, 2009, when you were inside the sweat lodge structure.

A. Yes.

Q. You talked before about water coming in. Did you see who it was who poured water on the Mina G. Hunt (928) 554-8522

rocks?

A. I believe it was Aaron who poured the water.

Q. How was it poured?

A. I don't know. I only saw the steam rise after it had been poured.

Q. Who was in charge of that ceremony that was being conducted inside the tent?

A. Mr. Ray was in charge.

Q. Who controlled how long a round was?

A. I believe it was Mr. Ray, because he -- he was the one who said he was the master or the controller of the ceremony and that we had to remain quiet to listen to his direction.

Q. When did he tell you that?

A. Before entering the lodge.

Q. Who controlled how long the gate was open in between each round?

MR. KELLY: Your Honor, object to the lack of foundation.

THE COURT: Sustained.

Q. BY MS. POLK: Do you know, Ms. Phillips, who controlled how long the gate would be open in between each round?

A. No, I do not.

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Q. And do you know who controlled how many rocks would come in each time there was a break between rounds?

A. I believe that Mr. Ray instructed how many rocks would be brought in.

Q. Was that something you heard?

A. Yes.

Q. And tell the jury what you would hear.

A. He would ask for the next round to be brought in. And I -- I say that because the first round he said, let's start with 12.

Q. I'm sorry?

A. The first round he asked to start with 12 rocks. I don't remember how many rocks were brought in each different session.

Q. I realize you were in a couple different positions when you were inside that tent. Were you -- when that opening to that tent was opened in between rounds, what were you able to feel, if anything?

A. I couldn't feel anything, but I could see light. I didn't notice any temperature difference.

Q. And for -- put up on the overhead Exhibit 414.

Does that apply to all the different Mina G Hunt (928) 554-8522

positions that you were inside the sweat lodge structure?

A. Yes, it does.

Q. And just for purposes since it's been overnight, will you point out on Exhibit 414 for the jury the different places that you spent some time inside that structure.

A. The first area that when I entered, I was somewhere around here. Upon leaving and reentering, I came back around here. And then, again, I crawled over to this area and finished up there.

Q. And so the record can reflect that when you were saying "here," the first mark you put on Exhibit 414, if we were looking at this like the face of a clock with 6:00 o'clock being at the entrance and 12:00 o'clock being on the other side --

A. I was around 3:00 o'clock.

Q. And then the second position you were in?

A. 10:00 o'clock.

Q. And then the third position?

A. 11:00 o'clock -- or not 11:00. I'm sorry. That would be 3:00. That would be 2:00.

Q. Did you notice any difference in Mina G Hunt (928) 554-8522

10 22 05AM 1 temperature or in how warm it felt between the
 10 22 11AM 2 three different places you were inside that tent?
 10 22 15AM 3 **A. When I reentered here, there wasn't room**
 10 22 15AM 4 **to lie down. I was closer to the pit. And what**
 10 22 15AM 5 **happened then was that the heat was too**
 10 22 25AM 6 **overwhelming. When I noticed that there was a**
 10 22 28AM 7 **space here where I could lie down, I crawled over**
 10 22 32AM 8 **and laid down.**
 10 22 32AM 9 **Q. Did you notice a difference in the**
 10 22 34AM 10 **temperature?**
 10 22 35AM 11 **A. It was much more bearable lying down.**
 10 22 38AM 12 **Q. Was there a difference in the temperature**
 10 22 40AM 13 **between -- I'm going to use the face of the**
 10 22 45AM 14 **clock -- between about the 10.00 o'clock position**
 10 22 48AM 15 **and then the air temperature over at the 2:00 or**
 10 22 52AM 16 **3:00 o'clock position?**
 10 22 53AM 17 **A. Because I was in this area, I was closer**
 10 22 58AM 18 **to the pit. That's why the temperature difference**
 10 23 01AM 19 **I'm assuming.**
 10 23 07AM 20 **Q. Inside that tent how close were you**
 10 23 10AM 21 **sitting with the people around you?**
 10 23 12AM 22 **A. We were rubbing up against each other,**
 10 23 15AM 23 **touching each other, or we had just a few**
 10 23 22AM 24 **centimeters in between.**
 10 23 23AM 25 **Q. Did that change over time?**
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10 23 25AM 1 **A. I was pretty close to people the whole**
 10 23 32AM 2 **entire time.**
 10 23 34AM 3 **Q. I'm going to clear the overhead and then**
 10 23 38AM 4 **have you just draw lines where people were seated**
 10 23 44AM 5 **so that the jury can see the seating arrangement**
 10 23 47AM 6 **inside the tent.**
 10 23 48AM 7 **A. The seating arrangement of everyone?**
 10 23 51AM 8 **Q. Roughly.**
 10 23 52AM 9 **A. Because when we entered and began, there**
 10 23 56AM 10 **was an outside ring and then there was an inside**
 10 24 01AM 11 **ring. And then people started laying down.**
 10 24 15AM 12 **Q. When you were inside that tent,**
 10 24 18AM 13 **Ms. Phillips, could you see the rocks that were in**
 10 24 21AM 14 **the pit?**
 10 24 21AM 15 **A. I could not. Not unless I was sitting**
 10 24 28AM 16 **up.**
 10 24 27AM 17 **Q. You testified yesterday about how you**
 10 24 33AM 18 **called out with concern about Kirby --**
 10 24 35AM 19 **A. Yes.**
 10 24 36AM 20 **Q. -- and how a voice answered. Will you**
 10 24 38AM 21 **show the jury where you were when that occurred.**
 10 24 47AM 22 **A. I was lying down around this area with my**
 10 24 47AM 23 **head to the flap.**
 10 24 48AM 24 **Q. And this area, again, would be the --**
 10 24 52AM 25 **A. I would say the 2:00 o'clock area.**
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10 24 56AM 1 **Q. Were you on your stomach or your back?**
 10 24 57AM 2 **A. I was on my stomach.**
 10 24 58AM 3 **Q. Where was your head in relationship to**
 10 25 02AM 4 **the edge of the tent?**
 10 25 04AM 5 **A. It was right next to the edge.**
 10 25 06AM 6 **Q. And where were your feet?**
 10 25 08AM 7 **A. Toward the pit.**
 10 25 08AM 8 **Q. Do you know, Ms. Phillips, where Kirby**
 10 25 12AM 9 **was?**
 10 25 12AM 10 **A. I believe that she was somewhere here.**
 10 25 15AM 11 **Q. Which would be the 12:00 o'clock**
 10 25 17AM 12 **position?**
 10 25 18AM 13 **A. Yes.**
 10 25 18AM 14 **Q. Do you know where James Shore was?**
 10 25 20AM 15 **A. He was close to them. I believe he was**
 10 25 23AM 16 **sitting around here.**
 10 25 25AM 17 **Q. Where was Mr. Ray?**
 10 25 27AM 18 **A. He was next to the tent flap. His**
 10 25 31AM 19 **assistant was beside him.**
 10 25 33AM 20 **Q. And that last mark would be in the**
 10 25 34AM 21 **6:00 o'clock position?**
 10 25 36AM 22 **A. Yes. Just -- not right at the entrance,**
 10 25 42AM 23 **just beside the entrance.**
 10 25 44AM 24 **Q. Were there people in between you and**
 10 25 46AM 25 **where you believed Kirby Brown was?**
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10 25 48AM 1 **A. There was one or two other people.**
 10 25 51AM 2 **Q. Do you know who they were?**
 10 25 52AM 3 **A. No.**
 10 25 53AM 4 **Q. Do you know if they were male or female?**
 10 25 56AM 5 **A. I do not recall.**
 10 25 57AM 6 **Q. And were there people to -- if you were**
 10 26 02AM 7 **lying on your stomach, were there people to the**
 10 26 04AM 8 **right of you?**
 10 26 05AM 9 **A. Yes, there were.**
 10 26 08AM 10 **Q. Do you know who they were?**
 10 26 07AM 11 **A. I believe the one was Josh, and Theresa**
 10 26 10AM 12 **and her husband.**
 10 26 12AM 13 **Q. Do you know, Ms. Phillips, is Josh --**
 10 26 15AM 14 **what's Josh's last name? Do you know?**
 10 26 17AM 15 **A. I can't recall.**
 10 26 18AM 16 **Q. Do you know who he was?**
 10 26 22AM 17 **A. He was one of the Dream Team members who**
 10 26 24AM 18 **worked for Mr. Ray.**
 10 26 25AM 19 **Q. Do you know, Ms. Phillips, if Josh stayed**
 10 26 28AM 20 **inside the tent for the entire ceremony conducted**
 10 26 32AM 21 **by Mr. Ray?**
 10 26 32AM 22 **A. To the best of my recollection, yes, he**
 10 26 35AM 23 **did.**
 10 26 35AM 24 **Q. Do you know who was on the other side of**
 10 26 43AM 25 **where you believe Kirby Brown and James Shore were?**
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10 26 47AM 1 **A. Who? Like --**
 10 26 54AM 2 **Q. And so I'm going to make a mark with a**
 10 26 57AM 3 **different color on our overhead. I guess it was**
 10 27 01AM 4 **the same color. Do you see where I just drew a**
 10 27 04AM 5 **mark?**
 10 27 05AM 6 **A. Yes.**
 10 27 06AM 7 **Q. Do you know who was in that area?**
 10 27 08AM 8 **A. I believe Sean and Lou Caci were in that**
 10 27 13AM 9 **area.**
 10 27 13AM 10 **Q. Do you know Sean's last name?**
 10 27 16AM 11 **A. No, I do not.**
 10 27 17AM 12 **Q. When you called out with your concern**
 10 27 19AM 13 **about Kirby Brown -- you testified about that**
 10 27 23AM 14 **yesterday -- and then you testified that a voice**
 10 27 26AM 15 **responded what?**
 10 27 27AM 16 **A. She's fine.**
 10 27 28AM 17 **Q. Was that voice a male or female?**
 10 27 31AM 18 **A. It was a male voice.**
 10 27 32AM 19 **Q. Will you indicate on the overhead where**
 10 27 35AM 20 **you heard that voice come from.**
 10 27 37AM 21 **A. I heard it come from this general area.**
 10 27 42AM 22 **And I don't know from whom it came.**
 10 27 44AM 23 **Q. And in the position that you were lying**
 10 27 47AM 24 **over here, where was your face?**
 10 27 55AM 25 **A. My cheek was to the ground and my face**
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10 28 00AM 1 **was to the tent flap.**
 10 28 03AM 2 **Q. Which cheek? Do you recall?**
 10 28 04AM 3 **A. I believe it was my right cheek.**
 10 28 06AM 4 **Q. With your face facing which way?**
 10 28 09AM 5 **A. Towards the tent flap. I had angled my**
 10 28 16AM 6 **head.**
 10 28 17AM 7 **Q. Will you indicate on the overhead which**
 10 28 20AM 8 **way you could see from how your face was laying on**
 10 28 25AM 9 **the ground.**
 10 28 25AM 10 **A. I would raise my head from time to time.**
 10 28 28AM 11 **And that's how I could see over in this direction.**
 10 28 31AM 12 **Q. Okay. And when you called out, which way**
 10 28 34AM 13 **were you looking?**
 10 28 35AM 14 **A. I was looking in this direction.**
 10 28 38AM 15 **Q. And was your head on the ground?**
 10 28 39AM 16 **A. No. It was not when I called out.**
 10 28 42AM 17 **Q. It was lifted up?**
 10 28 43AM 18 **A. Yes, it was.**
 10 28 47AM 19 **Q. Did you recognize the voice?**
 10 28 48AM 20 **A. I did not.**
 10 28 51AM 21 **Q. Do you know at that point in time how**
 10 28 59AM 22 **many men were still inside the tent?**
 10 29 06AM 23 **A. There was a lot of men.**
 10 29 06AM 24 **Q. Do you recognize the voice of James Ray?**
 10 29 09AM 25 **A. I do.**
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10 29 10AM 1 **Q. And did you make any connection between**
 10 29 12AM 2 **the voice you heard and the voice of Mr. Ray?**
 10 29 13AM 3 **A. I did not.**
 10 29 17AM 4 **Q. Would you recognize the voice of James**
 10 29 24AM 5 **Shore?**
 10 29 24AM 6 **A. I'm not certain.**
 10 29 28AM 7 **Q. Did you hear any other voices call out**
 10 29 31AM 8 **around the time you were calling out with your**
 10 29 34AM 9 **concern?**
 10 29 34AM 10 **A. Theresa had called out.**
 10 29 37AM 11 **Q. When did Theresa call out?**
 10 29 40AM 12 **A. She had called out around the time I had**
 10 29 44AM 13 **called out and instructed them to put her on her**
 10 29 48AM 14 **side so she could breathe easier.**
 10 29 50AM 15 **Q. What did Theresa say when she called out?**
 10 29 54AM 16 **A. Put her on her side so she can breathe**
 10 29 56AM 17 **easier.**
 10 29 57AM 18 **Q. Where was Theresa? Will you indicate on**
 10 29 59AM 19 **the overhead.**
 10 30 00AM 20 **A. She was around here.**
 10 30 02AM 21 **Q. On the other side of you then --**
 10 30 02AM 22 **A. Yes.**
 10 30 04AM 23 **Q. -- to your right?**
 10 30 06AM 24 **Did you hear any other voices call out?**
 10 30 09AM 25 **A. There was a lot of moaning and a lot of**
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10 30 14AM 1 **calling out and a lot of encouragement, people**
 10 30 20AM 2 **saying, come on warrior.**
 10 30 22AM 3 **Q. And I'm talking specifically about around**
 10 30 25AM 4 **the time that you called out with your concern.**
 10 30 27AM 5 **A. Just the response that, she's fine, is**
 10 30 29AM 6 **what I heard.**
 10 30 30AM 7 **Q. Do you know, Ms. Phillips, if Mr. Ray was**
 10 30 40AM 8 **still in the tent when you called out with your**
 10 30 42AM 9 **concern?**
 10 30 43AM 10 **A. Yes.**
 10 30 45AM 11 **Q. Do you know, Ms. Phillips, how long you**
 10 30 56AM 12 **were inside the tent on October 8th for that**
 10 30 59AM 13 **ceremony?**
 10 31 01AM 14 **A. I have no idea.**
 10 31 02AM 15 **Q. Why is that?**
 10 31 03AM 16 **A. Time ceased. It seemed to take forever,**
 10 31 06AM 17 **and yet at times things went quickly. I don't**
 10 31 11AM 18 **think any of us, especially myself -- I didn't have**
 10 31 14AM 19 **a good grasp of how long anything was.**
 10 31 16AM 20 **Q. Was there a change in your condition**
 10 31 21AM 21 **inside that tent?**
 10 31 23AM 22 **A. I believe so.**
 10 31 24AM 23 **Q. What sort of change?**
 10 31 26AM 24 **A. When I exited I couldn't walk**
 10 31 30AM 25 **immediately, and I was shaking and I was overheated**
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10 31 34AM 1 and not feeling well. And I can only assume that
 10 31 37AM 2 that has an impact on how one perceives things.
 10 31 42AM 3 Q. When you entered that tent, did you have
 10 31 45AM 4 a perception of time?
 10 31 50AM 5 A. It was in the middle of the afternoon.
 10 31 52AM 6 Q. Do you know when it was that you lost
 10 31 55AM 7 your perception of time?
 10 32 00AM 8 A. After it was over I didn't know what time
 10 32 04AM 9 it was.
 10 32 06AM 10 Q. Did you have a sense of time during the
 10 32 08AM 11 ceremony itself?
 10 32 09AM 12 A. Some rounds seemed to last 5 minutes.
 10 32 14AM 13 Some seemed to last 15. I have no idea of the
 10 32 18AM 14 accuracy of time.
 10 32 20AM 15 Q. Do you know when, while you were inside
 10 32 25AM 16 that tent, you experienced a change in your ability
 10 32 28AM 17 to perceive time?
 10 32 31AM 18 A. I'm not aware of when it occurred.
 10 32 33AM 19 Q. Were you aware, Ms. Phillips, of changes
 10 32 40AM 20 in your ability to perceive things while you were
 10 32 43AM 21 inside the tent?
 10 32 44AM 22 A. I was not aware at the time.
 10 32 50AM 23 Q. Were you aware later that something had
 10 32 52AM 24 changed inside?
 10 32 55AM 25 A. Afterwards I wondered if I had been as
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10 33 01AM 1 with it as I thought I had been. I wasn't sure.
 10 33 05AM 2 Q. Why? Why did you wonder that?
 10 33 09AM 3 A. Because I was very emotional, shaken up,
 10 33 13AM 4 overheated, not feeling well. I had a headache. I
 10 33 17AM 5 was nauseous. And I didn't know what to trust in
 10 33 26AM 6 my ability to perceive or do anything. I was
 10 33 30AM 7 shaky.
 10 33 33AM 8 Q. You testified yesterday about when
 10 33 39AM 9 Mr. Ray ended the ceremony and you came out. Tell
 10 33 44AM 10 the jury what happened when you got to the
 10 33 47AM 11 entrance. How did you get from the entrance to
 10 33 49AM 12 your spot on the tarp?
 10 33 51AM 13 A. I crawled from my spot and I crawled out
 10 33 55AM 14 onto the tarp. They had a tarp here and they had
 10 34 00AM 15 the water hose and they hosed us off.
 10 34 04AM 16 Q. Were other people crawling as well?
 10 34 06AM 17 A. Yes.
 10 34 07AM 18 Q. When you got to the tarp, what did you
 10 34 09AM 19 do?
 10 34 09AM 20 A. I sat down and allowed myself to be
 10 34 12AM 21 hosed.
 10 34 16AM 22 Q. Do you know who hosed you off?
 10 34 21AM 23 A. No, I do not.
 10 34 23AM 24 Q. Were you aware of your surroundings when
 10 34 23AM 25 you first came out of the tent and went to the
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10 34 25AM 1 tarp?
 10 34 26AM 2 A. It was a little disorienting.
 10 34 33AM 3 Q. How long did it take you to recover?
 10 34 35AM 4 A. I estimate between five and 15 minutes.
 10 34 42AM 5 Q. Can you describe for the jury what
 10 34 45AM 6 changes -- what it took to make you feel like you
 10 34 49AM 7 had recovered. What were the changes from when you
 10 34 51AM 8 first came out to 15 minutes later?
 10 34 53AM 9 A. From being extremely hot and then being
 10 34 56AM 10 hosed down and then having shivering and then being
 10 34 59AM 11 able to actually stand up without feeling my legs
 10 35 03AM 12 were going to collapse. Then I felt I was going to
 10 35 06AM 13 be okay.
 10 35 08AM 14 Q. How long did it take you to go from
 10 35 10AM 15 feeling overheated to shivering?
 10 35 15AM 16 A. It was a matter of moments after the --
 10 35 20AM 17 the cold water. But I continued shivering and
 10 35 25AM 18 getting hot for days after.
 10 35 31AM 19 Q. We'll talk about that in a moment.
 10 35 34AM 20 While you were on that tarp, how long did
 10 35 38AM 21 it take for you to become aware of things going on
 10 35 41AM 22 around you?
 10 35 43AM 23 A. I was not aware of the seriousness around
 10 35 49AM 24 me, and I was trying to recover and joke and see
 10 35 57AM 25 how other people were feeling. When I finally
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10 36 02AM 1 noticed there were people calling out and not doing
 10 36 08AM 2 well and not responding, and that's when it hit me
 10 36 08AM 3 and I realized, oh, dear.
 10 36 11AM 4 Q. Ms. Phillips, were you aware of how other
 10 36 13AM 5 people got out of the tent after you did?
 10 36 15AM 6 A. I was told afterwards --
 10 36 18AM 7 MR. KELLY: Objection.
 10 36 19AM 8 Q. BY MS. POLK: And I can only ask you
 10 36 20AM 9 about what you saw yourself.
 10 36 23AM 10 A. I -- I did not see people being -- only
 10 36 27AM 11 people being dragged out the front.
 10 36 31AM 12 MR. KELLY: Objection, Your Honor.
 10 36 32AM 13 THE COURT: There wasn't a question.
 10 36 33AM 14 Sustained.
 10 36 34AM 15 Ms. Polk, please ask another question.
 10 36 37AM 16 Q. BY MS. POLK: Ms. Phillips, did you see
 10 36 38AM 17 anybody else come out of the front of the tent?
 10 36 40AM 18 A. Yes.
 10 36 40AM 19 Q. You saw that? Where were you when you
 10 36 43AM 20 saw that?
 10 36 44AM 21 A. Both inside the tent and outside the
 10 36 46AM 22 tent.
 10 36 48AM 23 Q. Tell the jury what you saw.
 10 36 48AM 24 A. Some people were helped out of the tent
 10 36 53AM 25 and dragged out, and some people crawled out on
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10 36 57AM 1 **their own steam.**
 10 36 58AM 2 **Q.** For the people who were dragged out, did
 10 37 02AM 3 you see what happened to them next?
 10 37 03AM 4 **A. No, I did not.**
 10 37 04AM 5 **Q.** Did you have an altered experience while
 10 37 19AM 6 you were inside the tent?
 10 37 21AM 7 **A. I believe that my perception was altered.**
 10 37 25AM 8 **Q.** In what way?
 10 37 26AM 9 **A. With such heat, I can only imagine that I**
 10 37 35AM 10 **wouldn't be thinking like I would normally think on**
 10 37 37AM 11 **a day-to-day basis.**
 10 37 41AM 12 **Q.** Once you -- did you get up from the tarp
 10 37 46AM 13 at some point?
 10 37 47AM 14 **A. I did.**
 10 37 47AM 15 **Q.** And what did you do?
 10 37 48AM 16 **A. I helped Theresa.**
 10 37 51AM 17 **Q.** Do what?
 10 37 52AM 18 **A. Theresa had collapsed and couldn't feel**
 10 37 58AM 19 **her legs, and her husband was really concerned. So**
 10 38 02AM 20 **I asked the Angels to help me. And I did the**
 10 38 08AM 21 **breath work affirmations that I was taught in**
 10 38 12AM 22 **transformational breath. And I put my hands on her**
 10 38 16AM 23 **and kept pouring my energy into her until she felt**
 10 38 22AM 24 **better and she was able to get up and walk away.**
 10 38 25AM 25 **Q.** Where was Theresa when you helped her?
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10 38 28AM 1 **A. There was another tarp over this**
 10 38 33AM 2 **direction near the fire, where the fire heated the**
 10 38 38AM 3 **rocks.**
 10 38 50AM 4 **Q.** Now, I'm going to put up on the overhead
 10 38 52AM 5 Exhibit 145.
 10 39 03AM 6 You just tried to illustrate for us or
 10 39 05AM 7 show us where Theresa was. Does Exhibit 145 show
 10 39 10AM 8 it?
 10 39 10AM 9 **A. It does.**
 10 39 16AM 10 **Q.** Can you point on there for us or draw on
 10 39 13AM 11 there.
 10 39 17AM 12 Is that the same -- well, which one is
 10 39 18AM 13 the tarp that you were placed -- that you got on
 10 39 21AM 14 when you first came out?
 10 39 22AM 15 **A. This is the tarp that I was on.**
 10 39 24AM 16 **Q.** How did you become aware that Theresa
 10 39 28AM 17 needed help?
 10 39 27AM 18 **A. Her husband came and found me.**
 10 39 30AM 19 **Q.** Have I asked you if you know Theresa's
 10 39 33AM 20 last name?
 10 39 34AM 21 **A. I know it and I can't recall it. We've**
 10 39 41AM 22 **stayed in touch via email.**
 10 39 45AM 23 **Q.** How long were you with Theresa helping
 10 39 46AM 24 her?
 10 39 46AM 25 **A. I can only guess 15 minutes to a half**
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10 39 51AM 1 **hour.**
 10 39 53AM 2 **Q.** Were you aware of anything else going on
 10 39 56AM 3 around you while you were helping Theresa?
 10 39 58AM 4 **A. No, I was not.**
 10 39 58AM 5 **Q.** What did you do after you finished
 10 40 01AM 6 helping Theresa?
 10 40 03AM 7 **A. I was directed to go to my room and take**
 10 40 06AM 8 **a shower, and so I did.**
 10 40 12AM 9 **Q.** Who directed you to go take a shower?
 10 40 15AM 10 **A. We were being told by the Dream Team**
 10 40 18AM 11 **members and the Angel Valley staff. Anyone who**
 10 40 21AM 12 **could get up and go was to take a hot shower and**
 10 40 25AM 13 **change.**
 10 40 28AM 14 **Q.** Did you have a conversation with someone
 10 40 31AM 15 named Aaron at some point?
 10 40 35AM 16 **A. I did. And it was right after while I**
 10 40 39AM 17 **was on the tarp being hosed off before I realized**
 10 40 44AM 18 **the seriousness. And as soon as I realized, I**
 10 40 48AM 19 **asked him if I should call 9-1-1. And he said, no.**
 10 40 52AM 20 **It's been called. And I left it at that.**
 10 40 55AM 21 **Q.** What did you become aware of that made
 10 40 58AM 22 you ask Aaron if you should call 9-1-1?
 10 41 02AM 23 **A. There was a woman foaming at the mouth**
 10 41 05AM 24 **and shaking, and she was unconscious. And then I**
 10 41 07AM 25 **looked across and there was another lady. And she**
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10 41 11AM 1 **didn't seem to be responding. And it scared me.**
 10 41 15AM 2 **Q.** Let's talk about the woman who was
 10 41 18AM 3 foaming first. Which tarp were you on when you
 10 41 20AM 4 became aware of a woman foaming?
 10 41 23AM 5 **A. I was on the first tarp.**
 10 41 24AM 6 **Q.** Where was the woman that you became aware
 10 41 26AM 7 of?
 10 41 27AM 8 **A. She was over here somewhere.**
 10 41 30AM 9 **Q.** How was it that your attention was drawn
 10 41 32AM 10 to her?
 10 41 33AM 11 **A. There was commotion.**
 10 41 36AM 12 **Q.** How -- did you see her foaming at the
 10 41 39AM 13 mouth?
 10 41 40AM 14 **A. I did.**
 10 41 40AM 15 **Q.** Did you go over to her?
 10 41 41AM 16 **A. I did not.**
 10 41 42AM 17 **Q.** What did you do?
 10 41 43AM 18 **A. I asked Aaron if he needed me to call**
 10 41 46AM 19 **9-1-1.**
 10 41 47AM 20 **Q.** Did you become aware of somebody else
 10 41 49AM 21 also?
 10 41 51AM 22 **A. I started looking around and I noticed**
 10 41 55AM 23 **more people were in distress. Yes.**
 10 41 57AM 24 **Q.** Tell the jury more specifically what you
 10 41 58AM 25 saw when you started looking around.
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10 42 01AM **1 A. People in different states of distress**
 10 42 05AM **2 laying on the floor, on the ground, some throwing**
 10 42 10AM **3 up, some laying, some drinking water, some not**
 10 42 15AM **4 responding.**
 10 42 20AM **5 Q. Did you go to any of them?**
 10 42 22AM **6 A. I did not.**
 10 42 23AM **7 Q. Did you become aware of those people**
 10 42 25AM **8 before or after you went to Theresa to help her?**
 10 42 29AM **9 A. It was before but I was not sufficiently**
 10 42 32AM **10 feeling like I could stand myself.**
 10 42 36AM **11 Q. After Aaron told you that 9-1-1 had been**
 10 42 40AM **12 called, did emergency help arrive?**
 10 42 44AM **13 A. They did.**
 10 42 45AM **14 Q. Where were you when emergency help**
 10 42 48AM **15 arrived?**
 10 42 48AM **16 A. I don't recall.**
 10 42 54AM **17 Q. Were you still down at the scene?**
 10 42 57AM **18 A. I was at the -- at the scene. Yes.**
 10 42 59AM **19 Q. What did you become aware of in terms of**
 10 43 02AM **20 emergency response?**
 10 43 03AM **21 A. We saw the vehicle drive up and the**
 10 43 09AM **22 paramedics come. And I soon left to take a shower**
 10 43 13AM **23 so that they could do their work without being**
 10 43 16AM **24 impeded.**
 10 43 17AM **25 Q. Do you have any sense of how long -- how**
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10 43 21AM **1 much time had passed from the time that you came**
 10 43 23AM **2 out of the tent until emergency help arrived?**
 10 43 26AM **3 A. I have no idea.**
 10 43 34AM **4 Q. Can you describe for the jury what sort**
 10 43 36AM **5 of emergency response came in terms of vehicles or**
 10 43 40AM **6 whatever you remember.**
 10 43 41AM **7 A. There were fire trucks and ambulance and**
 10 43 44AM **8 Sheriffs' cars.**
 10 43 46AM **9 Q. How about helicopters?**
 10 43 49AM **10 A. There were helicopters we could hear. I**
 10 43 53AM **11 did not see the helicopter myself.**
 10 43 54AM **12 Q. Where were you when you heard**
 10 43 56AM **13 helicopters?**
 10 43 56AM **14 A. I was taking a shower or in my room.**
 10 44 09AM **15 Q. How did you get from the area of this**
 10 44 13AM **16 tent to your room?**
 10 44 14AM **17 A. They drove us in a shuttle. The Angel**
 10 44 18AM **18 Valley people had a golf cart, and they piled us in**
 10 44 22AM **19 and took us to our rooms.**
 10 44 23AM **20 Q. Did you find your roommates there?**
 10 44 25AM **21 A. I found Theresa and her husband in her**
 10 44 37AM **22 bed shivering together. I interrupted Laura taking**
 10 44 43AM **23 a shower. She was dressing. And I walked into the**
 10 44 46AM **24 bathroom and walked right into the shower, clothes**
 10 44 46AM **25 and all, while she was finishing blow drying her**
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10 44 50AM **1 hair.**
 10 44 50AM **2 Q. About how long were you in the shower?**
 10 44 52AM **3 A. A few moments. Enough to get clean. I**
 10 44 59AM **4 was filthy and I was cold.**
 10 45 02AM **5 Q. Did you check up on Theresa and her**
 10 45 06AM **6 husband?**
 10 45 06AM **7 A. I did.**
 10 45 07AM **8 Q. And what did you find?**
 10 45 08AM **9 A. They said they were feeling better. So I**
 10 45 12AM **10 left them after changing and I went to the dining**
 10 45 17AM **11 hall.**
 10 45 18AM **12 Q. How far is the dining hall -- was the**
 10 45 21AM **13 dining hall from your cabin?**
 10 45 23AM **14 A. Only a three-minute walk.**
 10 45 25AM **15 Q. What did you find when you got to the**
 10 45 28AM **16 dining hall?**
 10 45 29AM **17 A. Sheriffs, paramedic, Angel Valley people,**
 10 45 36AM **18 Dream Team members, and other warriors were milling**
 10 45 38AM **19 about. There was food available if you were**
 10 45 41AM **20 hungry.**
 10 45 42AM **21 Q. Did you eat any food?**
 10 45 44AM **22 A. I tried to eat something and I couldn't.**
 10 45 46AM **23 Q. How come?**
 10 45 47AM **24 A. I was nauseous.**
 10 45 54AM **25 Q. Were you questioned by any paramedics or**
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10 45 56AM **1 sheriffs at that time?**
 10 45 56AM **2 A. I was.**
 10 45 57AM **3 Q. As a group or individually?**
 10 45 59AM **4 A. Individually.**
 10 45 59AM **5 Q. Do you know who it was who spoke to you?**
 10 46 02AM **6 A. I do not recall the name.**
 10 46 03AM **7 Q. How long did you speak to one of the**
 10 46 06AM **8 sheriffs -- was it a sheriff or was it a --**
 10 46 08AM **9 A. I had -- I had so many people approaching**
 10 46 10AM **10 me and questioning me, I can't recall who I**
 10 46 13AM **11 answered.**
 10 46 15AM **12 Q. Did anybody approach you about your**
 10 46 19AM **13 condition?**
 10 46 20AM **14 A. I asked the paramedics if I should be**
 10 46 23AM **15 worried, and I told him my symptoms.**
 10 46 27AM **16 Q. And after that conversation with the**
 10 46 29AM **17 paramedic, what did you do?**
 10 46 30AM **18 A. He informed me that it could be carbon**
 10 46 38AM **19 monoxide poisoning, and I freaked out. And I**
 10 46 41AM **20 decided -- I had medical insurance -- I would go to**
 10 46 44AM **21 the hospital and get checked out.**
 10 46 45AM **22 Q. What symptoms did you tell the paramedic**
 10 46 48AM **23 you were experiencing?**
 10 46 49AM **24 A. A headache and nausea and then that I was**
 10 46 53AM **25 also hot and cold.**
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10 46 55AM 1 Q. Okay. Did you then go to the hospital?

10 46 59AM 2 A. **I did.**

10 46 59AM 3 Q. How did you get there?

10 47 01AM 4 A. **They put us in an ambulance -- myself,**

10 47 01AM 5 **Brandy, and Linnette. They put us on oxygen and**

10 47 08AM 6 **drove us.**

10 47 09AM 7 Q. Did they check you out at the scene

10 47 11AM 8 before driving you to the hospital?

10 47 12AM 9 A. **They did. They took our blood pressure.**

10 47 16AM 10 Q. Did they take your temperature?

10 47 17AM 11 A. **Yes, they did.**

10 47 19AM 12 Q. And I'm using the word "they." Do you

10 47 22AM 13 know who it was who was tending to you?

10 47 24AM 14 A. **It was a paramedic. I don't know his**

10 47 25AM 15 **name.**

10 47 26AM 16 Q. What else did he do for you at the scene?

10 47 28AM 17 A. **They gave us oxygen.**

10 47 32AM 18 Q. Do you know approximately what time it

10 47 35AM 19 was, Ms. Phillips, when you were driven in an

10 47 37AM 20 ambulance to the hospital?

10 47 38AM 21 A. **I don't recall.**

10 47 40AM 22 Q. Do you know what hospital you went to?

10 47 43AM 23 A. **I believe it was the Verde hospital.**

10 48 22AM 24 MR. KELLY: Judge, I would stipulate to 203

10 48 28AM 25 and 204.

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10 48 28AM 1 THE COURT: 203 and 204 are admitted.

10 48 33AM 2 (Exhibits 203 and 204 admitted.)

10 48 33AM 3 Q. BY MS. POLK: Ms. Phillips, you talked

10 48 34AM 4 for a -- a couple times you've mentioned being hot

10 48 36AM 5 and being cold. Do you know how warm of a day it

10 48 41AM 6 was on October 8th when you first entered the sweat

10 48 43AM 7 lodge?

10 48 44AM 8 A. **I don't know the temperature. However, I**

10 48 47AM 9 **was in shorts and a T-shirt. And I was quite**

10 48 50AM 10 **comfortable before entering the sweat lodge.**

10 49 41AM 11 MR. KELLY: Judge, we'd stipulate to 148.

10 49 45AM 12 THE COURT: 148 is admitted.

10 49 48AM 13 (Exhibit 148 admitted.)

10 49 49AM 14 MS. POLK: Thank you, Your Honor.

10 49 50AM 15 Q. You talked about being comfortable in

10 49 53AM 16 shorts and a shirt when you entered the sweat

10 49 56AM 17 lodge. Do you know approximately what time of day

10 49 58AM 18 it was?

10 49 59AM 19 A. **It was mid-afternoon.**

10 50 02AM 20 Q. And when you came out of the tent after

10 50 05AM 21 Mr. Ray's ceremony was over?

10 50 05AM 22 A. **It was later afternoon.**

10 50 09AM 23 Q. Was it still light?

10 50 10AM 24 A. **Yes, it was.**

10 50 11AM 25 Q. The sun was still up?

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10 50 12AM 1 A. **Yes, it was.**

10 50 13AM 2 Q. Do you recall, Ms. Phillips, what the air

10 50 18AM 3 temperature felt like then?

10 50 20AM 4 A. **I was alternating between hot and cold.**

10 50 22AM 5 **And immediately after I was shivering, so I was**

10 50 25AM 6 **unaware of what temperature.**

10 50 27AM 7 Q. Do you recall whether there was any

10 50 30AM 8 breeze or wind?

10 50 31AM 9 A. **I do not recall.**

10 50 35AM 10 Q. And after you were hosed off, were towels

10 50 39AM 11 available to you?

10 50 40AM 12 A. **I do not recall.**

10 50 47AM 13 Q. Do you recall when you got into a cart

10 50 51AM 14 and went to your room, were you -- did you have a

10 50 53AM 15 towel with you then?

10 50 54AM 16 A. **I believe, if I remember correctly, that**

10 50 55AM 17 **somebody put a towel over my shoulders. But I**

10 51 04AM 18 **couldn't state for certain.**

10 51 14AM 19 Q. Now you -- the paramedic took you, you

10 51 18AM 20 said, to the Verde hospital?

10 51 19AM 21 A. **Yes.**

10 51 19AM 22 Q. And if I tell you the name of the

10 51 22AM 23 hospital is the Verde Valley Medical Center, does

10 51 26AM 24 that ring a bell with you?

10 51 27AM 25 A. **Yes.**

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10 51 28AM 1 Q. Do you have any idea, Ms. Phillips, what

10 51 30AM 2 time it was when you were transported to the

10 51 32AM 3 hospital?

10 51 32AM 4 A. **I thought it was late night. I'm not**

10 51 39AM 5 **sure what time.**

10 52 08AM 6 Q. If I told you that the Verde Valley Fire

10 52 10AM 7 District's report, which is Exhibit 204, indicates

10 52 19AM 8 that it was -- they were on scene at 2154, which

10 52 23AM 9 would be 9:54 p.m., does that sound right to you?

10 52 32AM 10 A. **I'm -- I'm aware that there were many**

10 52 34AM 11 **different people that came at different times. So**

10 52 37AM 12 **yes. It's very likely.**

10 52 43AM 13 Q. Upon your arrival to the Verde Valley

10 52 46AM 14 Medical Center, where were you taken?

10 52 47AM 15 A. **I was taken to the admittance, where I**

10 52 52AM 16 **was allowed to call my insurance provider. And**

10 52 55AM 17 **then they took me to a separate room and had me sit**

10 52 58AM 18 **on a gurney.**

10 53 02AM 19 Q. Were you seen by somebody?

10 53 03AM 20 A. **Yes. They took blood and gave me**

10 53 07AM 21 **antinausea medication.**

10 53 09AM 22 Q. Were you seen by a doctor?

10 53 11AM 23 A. **Yes.**

10 53 11AM 24 Q. Do you recall that doctor's name?

10 53 13AM 25 A. **No, I do not.**

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10 53 14AM 1 Q. I'm going to put up on the overhead

10 53 21AM 2 Exhibit 203, which is your medical record from the

10 53 30AM 3 hospital. You told us that one of the paramedics

10 53 37AM 4 said to you that you should get checked out because

10 53 40AM 5 there was a concern about carbon monoxide

10 53 40AM 6 poisoning?

10 53 41AM 7 A. Yes.

10 53 41AM 8 Q. And did you talk to the doctor that you

10 53 43AM 9 saw at the Verde Valley Medical Center about that?

10 53 45AM 10 A. Yes.

10 53 58AM 11 Q. I'm going to read from Exhibit 203, which

10 54 09AM 12 is your medical record. Do you see where it says,

10 54 13AM 13 history of present illness?

10 54 14AM 14 A. Yes.

10 54 15AM 15 Q. And then right here where it says, no

10 54 26AM 16 carbon monoxide was detected on site or in the

10 54 30AM 17 first few people that arrived, did you talk to the

10 54 33AM 18 doctor about that?

10 54 34AM 19 A. He actually came and reassured me that it

10 54 37AM 20 was not carbon monoxide poisoning.

10 54 40AM 21 MR. KELLY: Judge, I'm going to object. It's

10 54 43AM 22 hearsay. Request the answer be stricken.

10 54 45AM 23 THE COURT: Sustained. That last answer is

10 54 47AM 24 stricken.

10 54 51AM 25 MR. KELLY: Judge, I'd also object to any

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10 54 53AM 1 questions posed to this witness in regards to this

10 54 56AM 2 exhibit. But we stipulated to it's admission upon

10 54 59AM 3 an assurance that a later witness would be able to

10 55 02AM 4 lay foundation. To ask this witness as to the

10 55 05AM 5 meaning of that document, I believe is -- requires

10 55 08AM 6 a hearsay response or no foundation.

10 55 10AM 7 THE COURT: We'll proceed question by

10 55 12AM 8 question.

10 55 12AM 9 Ms. Polk, you may continue.

10 55 14AM 10 Q. BY MS. POLK: Ms. Phillips, what

10 55 18AM 11 treatment did you receive at the Verde Valley

10 55 20AM 12 Medical Center?

10 55 20AM 13 A. I received oxygen, Tylenol, and

10 55 24AM 14 antinausea medication.

10 55 31AM 15 Q. And were you discharged with any

10 55 33AM 16 information about any conditions to take care of?

10 55 38AM 17 A. I was told to go see my doctor if I

10 55 42AM 18 continued to feel any symptoms. I was given

10 55 47AM 19 antinausea medication and told to drink lots and

10 55 51AM 20 rehydrate.

10 55 53AM 21 Q. And now we're looking at page -- the

10 55 53AM 22 fourth page of this exhibit. Were you given

10 55 58AM 23 follow-up material?

10 56 06AM 24 A. I was.

10 56 10AM 25 Q. And what were you given?

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10 56 12AM 1 A. I was given paper and medication.

10 56 16AM 2 Q. And your medical records indicate patient

10 56 21AM 3 was given the following education materials: Heat

10 56 28AM 4 exhaustion, Phenergan, Promethazine.

10 56 29AM 5 What did you receive about heat

10 56 29AM 6 exhaustion?

10 56 33AM 7 A. I don't recall the directions now. I had

10 56 38AM 8 read them at the time.

10 56 43AM 9 Q. And then the Phenergan was what?

10 56 43AM 10 A. I believe that was the antinausea.

10 56 55AM 11 Q. Was your body examined by the doctor?

10 56 58AM 12 A. It was.

10 56 59AM 13 Q. And did you notice changes on your body?

10 57 05AM 14 A. I noticed I was red all over.

10 57 08AM 15 Q. Did you talk to the doctor about that?

10 57 09AM 16 A. I did.

10 57 10AM 17 Q. And were you -- did you receive any

10 57 13AM 18 treatment for it?

10 57 14AM 19 A. He said it would go away.

10 57 16AM 20 Q. Did he tell you what it was?

10 57 18AM 21 MR. KELLY: Your Honor, objection. Hearsay.

10 57 21AM 22 THE COURT: Sustained.

10 57 24AM 23 MS. POLK: And, Your Honor, I'm just asking if

10 57 26AM 24 the doctor told her what it was, not what the

10 57 26AM 25 doctor said.

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10 57 26AM 1 THE COURT: That's true. And so -- that

10 57 28AM 2 question calls for a yes or no response.

10 57 30AM 3 You may answer that, if you can, yes or

10 57 32AM 4 no. If you can't do that, then you can let

10 57 35AM 5 Ms. Polk know that.

10 57 35AM 6 THE WITNESS: May you repeat the question?

10 57 37AM 7 Q. BY MS. POLK: Yes. Did the doctor who

10 57 39AM 8 looked at your body -- did he -- this is just a yes

10 57 41AM 9 or no. Did the doctor tell you what the redness

10 57 43AM 10 was that was all over your body?

10 57 45AM 11 A. Yes.

10 57 48AM 12 Q. How long were you at the hospital?

10 57 50AM 13 A. Into the wee hours of the morning.

10 57 56AM 14 Q. How did you -- when you left how did you

10 57 59AM 15 get back to Angel Valley?

10 58 01AM 16 A. There were two people to meet us. I know

10 58 05AM 17 the one was Michael and, I don't know the other

10 58 09AM 18 gentleman's name.

10 58 11AM 19 Q. Do you know where Michael was from?

10 58 14AM 20 A. I don't know where Michael was from. He

10 58 17AM 21 was working for Mr. Ray. I had met him on previous

10 58 22AM 22 occasions.

10 58 25AM 23 Q. Were other people transported from the

10 58 27AM 24 hospital back to Angel Valley with you?

10 58 30AM 25 A. Yes.

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10 58 30AM 1 Q. Who else?

10 58 31AM 2 A. **Linnette. And I can't recall if Brandy**

10 58 38AM 3 **was there or not.**

10 58 40AM 4 Q. What happened when you got back to Angel

10 58 41AM 5 Valley?

10 58 44AM 6 A. **I met with my friend Jen. We hugged in**

10 58 49AM 7 **the parking lot. She left for home, and I went to**

10 58 53AM 8 **bed.**

10 58 54AM 9 Q. What time did you get up the next day,

10 59 00AM 10 which would now be Friday?

10 59 02AM 11 MR. KELLY: Your Honor, I'm going to object on

10 59 03AM 12 the basis of relevance.

10 59 06AM 13 THE COURT: Overruled.

10 59 07AM 14 You may answer that.

10 59 07AM 15 THE WITNESS: I got up early, between 6:00 and

10 59 12AM 16 6:30.

10 59 12AM 17 Q. BY MS. POLK: And what did you do?

10 59 14AM 18 MR. KELLY: Same objection, Judge.

10 59 18AM 19 THE COURT: Overruled.

10 59 19AM 20 You may answer that.

10 59 21AM 21 THE WITNESS: I packed my bags and had

10 59 24AM 22 breakfast.

10 59 24AM 23 Q. BY MS. POLK: Did you leave Angel Valley

10 59 26AM 24 that day?

10 59 27AM 25 A. **I did.**

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10 59 28AM 1 Q. What time?

10 59 29AM 2 A. **It was in the morning. I don't know what**

10 59 32AM 3 **time.**

10 59 34AM 4 Q. You mentioned earlier the effects that

10 59 38AM 5 you continued to feel for a few days. Will you

10 59 41AM 6 describe those for the jury.

10 59 43AM 7 A. **I would simply get very hot and then I**

10 59 48AM 8 **would get the chills and I would shiver.**

10 59 51AM 9 Q. How about the redness that you described

10 59 52AM 10 on your body?

10 59 53AM 11 A. **My redness went away in about three or**

10 59 58AM 12 **four days.**

10 59 58AM 13 Q. How did that -- did that redness have any

11 00 01AM 14 feeling associated with it?

11 00 03AM 15 A. **No.**

11 00 12AM 16 Q. Outside that sweat lodge when you were on

11 00 16AM 17 the tarp or the things that you were describing --

11 00 21AM 18 did you see anybody who appeared to be in charge of

11 00 23AM 19 taking care of the scene?

11 00 25AM 20 A. **There was not one person in charge. I**

11 00 28AM 21 **saw many Dream Team members as well as the Angel**

11 00 30AM 22 **Valley people helping direct.**

11 00 45AM 23 Q. Have you heard the term "Journey of

11 00 48AM 24 Power"?

11 00 48AM 25 A. **Yes, I have.**

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11 00 49AM 1 Q. **Will you tell the jury what that means.**

11 00 52AM 2 MR. KELLY: Your Honor, objection. Relevance.

11 00 58AM 3 MS. POLK: I can lay more foundation, Your

11 01 00AM 4 Honor.

11 01 00AM 5 THE COURT: Yes.

11 01 02AM 6 Q. BY MS. POLK: Where was it that you heard

11 01 04AM 7 the term "Journey of Power"?

11 01 05AM 8 A. **It was at seminars.**

11 01 08AM 9 Q. Who used those words?

11 01 10AM 10 A. **Participants of the seminars as well as**

11 01 13AM 11 **Mr. Ray.**

11 01 14AM 12 Q. Did Mr. Ray tell you what "Journey of

11 01 16AM 13 Power" meant?

11 01 18AM 14 A. **I understood it that it was the journey**

11 01 22AM 15 **of attending the courses.**

11 01 26AM 16 Q. What does that mean, the journey of

11 01 27AM 17 attending the courses?

11 01 29AM 18 MR. KELLY: Your Honor, excuse me. Ms. Polk,

11 01 31AM 19 again, I object on the basis of relevance.

11 01 33AM 20 THE COURT: I want to have a sidebar.

11 01 35AM 21 Ladies and gentlemen, please feel free to

11 01 39AM 22 stand and stretch.

11 02 20AM 23 (Sidebar conference.)

11 02 20AM 24 MR. KELLY: Judge.

11 02 21AM 25 THE COURT: I don't have any idea where this

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11 02 23AM 1 might be going. I just can't --

11 02 26AM 2 MS. POLK: Judge, this witness is going to

11 02 28AM 3 describe the Journey of Power as it goes to her

11 02 32AM 4 mind-set and the mind-set of the other parties.

11 02 35AM 5 It's all part of the program. And by going

11 02 38AM 6 through -- by going through the different courses,

11 02 41AM 7 it's part and parcel of calling yourself as a

11 02 43AM 8 warrior. This going to be my last question unless

11 02 46AM 9 my co-counsel has something for me to --

11 02 48AM 10 MR. HUGHES: I had a question or two.

11 02 50AM 11 MS. POLK: I'm almost at the end.

11 02 52AM 12 THE COURT: Mr. Li, go ahead.

11 02 54AM 13 MR. KELLY: Judge, I'm kind of at a loss here.

11 02 58AM 14 Why would her state of mind and when she's

11 03 00AM 15 attending prior seminars have anything to do with

11 03 05AM 16 the manslaughter charges against three named

11 03 08AM 17 victims? We don't know whether Kirby was there.

11 03 12AM 18 We don't know if Kirby was taking notes. We don't

11 03 14AM 19 know if Kirby went to the bathroom and listened.

11 03 17AM 20 There is no foundation. I don't think it relates

11 03 19AM 21 at all. Different issue. Right now there's simply

11 03 23AM 22 no foundation.

11 03 24AM 23 THE COURT: There has been a discussion about

11 03 28AM 24 mind-set of participants as well and why they're

11 03 31AM 25 acting the way they do in the sweat lodge ceremony.

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11:03:35AM 1 That's the basic concept. And here we are in the
11:03:39AM 2 evidence and I don't know the --

11:03:45AM 3 Mr. Kelly, I thought you were going to
11:03:51AM 4 raise a concern about getting into business
11:03:57AM 5 practices or something like that. I'm having this
11:04:03AM 6 bench conference and I'm hearing that's not where
11:04:09AM 7 this is going.

11:04:15AM 8 So, basically, to the extent people act
11:04:21AM 9 the way they do and in the sweat lodge if they're
11:04:27AM 10 on -- if this is part of this journey or something,
11:04:33AM 11 that would be the arguable relevance that I'm
11:04:39AM 12 hearing.

11:04:45AM 13 MR. KELLY: Not arguing the relevance, Judge.
11:04:51AM 14 Simply the foundation, what relevance or how would
11:04:57AM 15 the government lay foundation for this person's
11:05:03AM 16 state of mind as it relates to the deceased
11:05:09AM 17 victims.

11:05:15AM 18 You would have to establish that each and
11:05:21AM 19 every seminar that she participated in the three
11:05:27AM 20 victims equally participated in before you could
11:05:33AM 21 even get to this next step as to whether or not it
11:05:39AM 22 somehow relates to the victims' state of mind when
11:05:45AM 23 they're in the sweat lodge years ago. I've got two
11:05:51AM 24 concerns.

11:05:57AM 25 THE COURT: Ms. Polk, anything else on this?
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11:04:52AM 1 MS. POLK: No, Your Honor.

11:04:58AM 2 THE COURT: That's a point that hasn't
11:05:04AM 3 directly been raised. Is there in some sense that
11:05:10AM 4 a jury would be permitted to infer that this is
11:05:16AM 5 some influence or dynamic that's created so it
11:05:22AM 6 would affect others?

11:05:28AM 7 I think, Ms. Polk, again, this is what
11:05:34AM 8 I'm seeing is the relevance: There is a question
11:05:40AM 9 as to why people weren't doing other things.
11:05:46AM 10 Again, there may need to be limiting instructions
11:05:52AM 11 on some of this.

11:05:58AM 12 But why people might not be helping out
11:06:04AM 13 or reacting more to problems, that's the point it's
11:06:10AM 14 being presented for I think.

11:06:16AM 15 MR. KELLY: Judge, you're focused on
11:06:22AM 16 relevance. I'm focused on foundation.

11:06:28AM 17 THE COURT: I think you're focused on the
11:06:34AM 18 mind-set of the alleged victims. And I think the
11:06:40AM 19 state's focused on the mind-set of other
11:06:46AM 20 participants who are in there and why they acted
11:06:52AM 21 the way they did. That's -- so I think that's the
11:06:58AM 22 difference.

11:07:04AM 23 MR. KELLY: Well, then, in terms of
11:07:10AM 24 foundation, if that's the case, is that somehow her
11:07:16AM 25 mind-set is consistent with other participants

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11:06:12AM 1 during the time in which the death occurred of the
11:06:18AM 2 victims, then, again, there is no foundation
11:06:24AM 3 because we don't know if these other participants
11:06:30AM 4 went to the same seminar.

11:06:36AM 5 THE COURT: If you recall, when we started
11:06:42AM 6 out, I asked Ms. Polk if this person was in the
11:06:48AM 7 sweat lodge. She said yes. That's why these other
11:06:54AM 8 questions were presented and answered.

11:07:00AM 9 So right now the only thing that would be
11:07:06AM 10 relevant is her mind-set. That's what it would be
11:07:12AM 11 relevant to. That's the only relevance I see.
11:07:18AM 12 Unless, as I've said, there is some concept. Can
11:07:24AM 13 this somehow be implied? I'm concerned with that
11:07:30AM 14 concept. But that's the basis of it, Mr. Kelly.

11:07:36AM 15 MR. KELLY: Her mind-set in reality is
11:07:42AM 16 developed over an entire life history of 43 years.

11:07:48AM 17 THE COURT: I know.

11:07:54AM 18 MR. KELLY: If we're going to go through each
11:08:00AM 19 and every witness in this case and talk about how
11:08:06AM 20 they developed their mind-set -- you know -- all
11:08:12AM 21 their childhood experiences, all the seminars, all
11:08:18AM 22 the education, the training to bring them up, this
11:08:24AM 23 case is going to take four years, not four months.

11:08:30AM 24 THE COURT: Now I understand your foundational
11:08:36AM 25 objection.

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11:07:25AM 1 Ms. Polk, another thing that's being
11:07:31AM 2 discussed, these things can come up if they bear on
11:07:37AM 3 the mind-set. That's when they come in. If they
11:07:43AM 4 have nothing to do with it, it's just like other
11:07:49AM 5 cases where there are aspects of someone's
11:07:55AM 6 background. It could be a traumatic experience and
11:08:01AM 7 it's not allowed in sometimes.

11:08:07AM 8 In those cases you don't let a traumatic
11:08:13AM 9 experience in. It could be prejudicial or various
11:08:19AM 10 things, but that would be the foundational aspect
11:08:25AM 11 to it. If that's a factor in why she's doing what
11:08:31AM 12 she's doing, then that would be the necessary
11:08:37AM 13 foundation.

11:08:43AM 14 At this point it would be sustained as to
11:08:49AM 15 foundation.

11:08:55AM 16 MR. HUGHES: Thank you.

11:09:01AM 17 MS. POLK: May I go on, Your Honor?

11:09:07AM 18 THE COURT: Yes, you may. And you may
11:09:13AM 19 proceed.

11:09:19AM 20 MS. POLK: Thank you, Your Honor.

11:09:25AM 21 Q. Ms. Phillips, you mentioned you are
11:09:31AM 22 familiar with the Journey of Power?

11:09:37AM 23 A. Yes.

11:09:43AM 24 Q. And when did you first hear that term?

11:09:49AM 25 A. It was my first seminar that I heard the
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11 08 58AM 1 **term.**
 11 08 59AM 2 **Q.** Your first seminar with who?
 11 09 01AM 3 **A.** **With Mr. Ray.**
 11 09 01AM 4 **Q.** When you were at the Spiritual
 11 09 01AM 5 Warrior 2009 seminar, were you on a Journey of
 11 09 10AM 6 Power?
 11 09 10AM 7 **MR. KELLY:** Your Honor, objection.
 11 09 14AM 8 **THE COURT:** Do you have an objection?
 11 09 14AM 9 **MR. KELLY:** I do.
 11 09 15AM 10 **THE COURT:** The basis?
 11 09 17AM 11 **MR. KELLY:** Do I need to approach again?
 11 09 19AM 12 **THE COURT:** What would the basis be?
 11 09 22AM 13 **MR. KELLY:** What we discussed at sidebar.
 11 09 32AM 14 **THE COURT:** Sustained as to -- in the
 11 09 34AM 15 leading -- as to leading.
 11 09 36AM 16 **MS. POLK:** I'm trying to lay the foundation.
 11 09 36AM 17 **THE COURT:** Okay.
 11 09 42AM 18 Counsel, approach.
 11 09 42AM 19 (Sidebar conference.)
 11 09 57AM 20 **THE COURT:** We might as well get this worked
 11 09 59AM 21 out now. I understand the dilemma. The thing is
 11 10 06AM 22 whether or not it has effect or she's being led
 11 10 09AM 23 into -- right into planting it there. If it's not
 11 10 17AM 24 presented in such a leading fashion -- you know --
 11 10 20AM 25 if there is a question as to whether it is a factor
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11 10 22AM 1 or something like that.
 11 10 25AM 2 That's the dilemma. Mr. Kelly, your
 11 10 28AM 3 objection, though, is what?
 11 10 29AM 4 **MR. KELLY:** If the doors are closed, it
 11 10 33AM 5 includes the back door. You can't get to the same
 11 10 37AM 6 result by leading someone improperly to get around
 11 10 41AM 7 the entire objection, that a person's state of mind
 11 10 44AM 8 in a particular incident is developed in their
 11 10 47AM 9 entire life history. And that is precluded
 11 10 53AM 10 especially when she's not a victim in this case.
 11 10 57AM 11 We have multiple concerns here --
 11 10 59AM 12 relevance, the foundation, the purpose, the
 11 11 02AM 13 prejudice.
 11 11 05AM 14 **THE COURT:** The first time it's been raised.
 11 11 08AM 15 And I assume these people have been interviewed and
 11 11 09AM 16 things like that --
 11 11 10AM 17 **MR. KELLY:** Judge, I apologize for
 11 11 14AM 18 interrupting. We interviewed them in about 2009
 11 11 17AM 19 about the crime.
 11 11 17AM 20 **THE COURT:** Did this ever come up?
 11 11 18AM 21 **MR. KELLY:** No.
 11 11 22AM 22 **THE COURT:** Is this the first you've ever
 11 11 25AM 23 heard this term called this?
 11 11 25AM 24 **MR. KELLY:** I represent Mr. Ray. I understand
 11 11 28AM 25 the term.

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11 11 28AM 1 **THE COURT:** In the context of a witness
 11 11 30AM 2 interview, was it raised or a disclosure about this
 11 11 33AM 3 type of testimony?
 11 11 35AM 4 **MR. KELLY:** In terms of disclosure, we
 11 11 37AM 5 represent Mr. Ray. He has this information. The
 11 11 39AM 6 issue is during a pretrial witness interview, we
 11 11 44AM 7 were interviewing the witness in regards to
 11 11 46AM 8 relevant items related to 2009, not her background.
 11 11 52AM 9 **MR. LI:** I've never --
 11 11 54AM 10 **MR. KELLY:** Do I get to ask her did she take
 11 11 58AM 11 first communion when she was 12?
 11 12 00AM 12 **THE COURT:** There has been an overall
 11 12 03AM 13 objection about the whole seminar. What's been
 11 12 04AM 14 discussed is how people involve themselves in these
 11 12 07AM 15 various events. That's one thing. And who's
 11 12 09AM 16 leading them and why they would necessarily follow
 11 12 12AM 17 a direction. It's all been confined.
 11 12 14AM 18 And Ms. Polk is expanding it as to
 11 12 17AM 19 whether or not this is an aspect of it. I'm
 11 12 20AM 20 concerned more about just leading into that, if it
 11 12 24AM 21 has something specific to do with that.
 11 12 28AM 22 **Mr. Li, Mr. Kelly, one person. One**
 11 12 30AM 23 **lawyer.**
 11 12 37AM 24 **MR. KELLY:** I just to could not hear your
 11 12 39AM 25 question, Judge. Again, I've been on the other
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11 12 43AM 1 side of this argument. And we represent Mr. Ray.
 11 12 45AM 2 I'm sure he knows something about Journey of Power.
 11 12 48AM 3 It was never disclosed that somehow that would
 11 12 52AM 4 become an issue relevant to recklessly causing the
 11 12 55AM 5 death of three people. That's the problem.
 11 12 56AM 6 So during our pretrial discovery we
 11 12 59AM 7 focused in on 2009 and we didn't ask all these
 11 13 04AM 8 witnesses if we're talking about spirituality and
 11 13 09AM 9 energy flowing to heal people. I'll be honest with
 11 13 13AM 10 you, Judge. I've tried a lot of cases. Generally
 11 13 15AM 11 that's not the subject of a criminal case.
 11 13 17AM 12 So we're not -- we didn't start
 11 13 20AM 13 interviewing people. She made a statement in one
 11 13 23AM 14 of her interviews, I tried religion but it didn't
 11 13 28AM 15 work for me. I let that go.
 11 13 30AM 16 I didn't ask her what religion, whether
 11 13 32AM 17 she received communion, why did it or didn't it
 11 13 35AM 18 work for her thinking that was somehow going to
 11 13 37AM 19 involve into James Ray and the Journey of Power.
 11 13 41AM 20 **THE COURT:** Well, I think everybody can
 11 13 44AM 21 concede it's an unusual case, why people were doing
 11 13 47AM 22 what they were doing. You're indicating it could
 11 13 49AM 23 be they were poisoned, and that could come up.
 11 13 53AM 24 These kinds of questions about going back
 11 13 55AM 25 into motivations, why people act in an unusual

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11 13 58AM 1 situation, I don't know. No one has given me much
 11 14 02AM 2 precedent. Of course, the state has the burden.
 11 14 04AM 3 Ms. Polk?

11 14 05AM 4 MS. POLK: Your Honor, this witness has
 11 14 06AM 5 already testified that she's a warrior, that she
 11 14 10AM 6 follows his teachings, that she was seeking
 11 14 15AM 7 enlightenment. She's been to multiple seminars.
 11 14 16AM 8 The Journey of Power, she already testified, is
 11 14 18AM 9 attending all of those seminars. And my question
 11 14 22AM 10 for her is, was she on the Journey of Power and is
 11 14 26AM 11 that something that she -- it goes to what the
 11 14 31AM 12 teachings are that she believed and why she acted
 11 14 35AM 13 like she did.

11 14 36AM 14 THE COURT: If there is a question --

11 14 38AM 15 Mr. Kelly, I want you to hear this. If
 11 14 39AM 16 there is a question to the effect and in a
 11 14 43AM 17 nonleading fashion, does that relate to how she
 11 14 46AM 18 participated in the sweat lodge directly related to
 11 14 50AM 19 it -- that can be asked. I think this lady seems
 11 14 52AM 20 to be answering very carefully. When she doesn't
 11 14 56AM 21 know something, she's not guessing. To ask as on
 11 15 01AM 22 the Journey of Power, go into it, Mr. Kelly --

11 15 05AM 23 MR. KELLY: Judge, again, thank you for your
 11 15 08AM 24 patience. If I understand, this argument is the
 11 15 13AM 25 connection that if this lady is on some Journey of

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11 15 16AM 1 Power, in her mind, that that recklessly caused the
 11 15 20AM 2 death of three people?

11 15 23AM 3 Because I still do not understand the
 11 15 25AM 4 relevance. If -- and I say this with abundance of
 11 15 30AM 5 caution. If somehow it could be established that
 11 15 33AM 6 the three victims were likewise on a Journey of
 11 15 36AM 7 Power --

11 15 36AM 8 THE COURT: That's a part too. Can there be
 11 15 39AM 9 that leading? And that's where we started. And
 11 15 43AM 10 right now it's a question of how people approach
 11 15 47AM 11 the seminar and how they thought they were going to
 11 15 50AM 12 get a benefit out of it and what they needed to do.

11 15 52AM 13 If it meant anything to be called a
 11 15 54AM 14 "warrior," if there is some way to get into that in
 11 15 59AM 15 a nonleading fashion, if there are any other
 11 16 02AM 16 factors that -- you know -- that's the whole thing.

11 16 06AM 17 Why did people react this way? Were they
 11 16 12AM 18 poisoned? Was it -- did they ignore things? This
 11 16 15AM 19 is factual things for the jury to sort out.

11 16 20AM 20 MR. KELLY: And, Judge, importantly, Mr. Ray
 11 16 26AM 21 is on trial for some serious crimes. I don't need
 11 16 34AM 22 to emphasize that. As we discussed yesterday with
 11 16 36AM 23 Vision Quest, one of the victims didn't attend that
 11 16 37AM 24 exercise.

11 16 37AM 25 So in terms of foundation, if you're
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11 16 39AM 1 going to impute her state of mind to the victims
 11 16 42AM 2 and they didn't participate, the foundation is
 11 16 46AM 3 lacking.

11 16 46AM 4 THE COURT: You're covering the same ground
 11 16 48AM 5 now, you know.

11 16 48AM 6 MR. KELLY: So right now we have no idea
 11 16 53AM 7 whether any of these three victims thought, in
 11 16 55AM 8 their minds, that they were on a Journey of Power.
 11 16 58AM 9 So again, I ask --

11 17 00AM 10 THE COURT: And that's not the question.
 11 17 02AM 11 That's not the question. Mr. Kelly, you're
 11 17 05AM 12 blurring the issues. It's what's in her mind and
 11 17 11AM 13 why she was reacting the way she was.

11 17 13AM 14 If it was a factor, my concern is if she
 11 17 16AM 15 got into that, like all the way through -- you
 11 17 20AM 16 know -- making me think out loud on this. If
 11 17 24AM 17 you're really not saying --

11 17 27AM 18 MR. KELLY: Judge, I know the jury is here and
 11 17 29AM 19 we'll have a lot more time. I'll ask what the next
 11 17 33AM 20 question is and the instruction.

11 17 34AM 21 THE COURT: That it not be leading. Are you
 11 17 37AM 22 on a Journey of Power?

11 17 38AM 23 MS. POLK: Your Honor, what does it mean to
 11 17 40AM 24 you to be on a Journey of Power?

11 17 41AM 25 THE COURT: And that's why I don't see how
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11 17 44AM 1 that, Ms. Polk, ties directly into what her state
 11 17 47AM 2 of mind was at the time. It may or may not. And
 11 17 49AM 3 it might lead her there when it's not something
 11 17 53AM 4 she's thinking about.

11 17 55AM 5 MS. POLK: I'm going to ask her is that a
 11 17 57AM 6 teaching. I can ask her trying not to lead. Ask
 11 18 00AM 7 more -- I can be more specific and say did you --
 11 18 05AM 8 did being on a Journey of Power affect how you --
 11 18 08AM 9 affect your thinking during the Spiritual Warrior
 11 18 11AM 10 or during the sweat lodge? I think we need to hear
 11 18 15AM 11 what the Journey of Power is.

11 18 17AM 12 THE COURT: Well, if it's -- it's somewhat
 11 18 19AM 13 leading. I don't know how you can get around the
 11 18 21AM 14 specific area any more. And you will have
 11 18 23AM 15 cross-examination. That kind of question you just
 11 18 26AM 16 have to back off the leading aspect as much as
 11 18 30AM 17 possible.

11 18 31AM 18 I'm going to allow it for this witness.
 11 18 35AM 19 We now have this discussion. It may be a problem
 11 18 38AM 20 in the future.

11 18 39AM 21 Thank you.
 11 18 50AM 22 (End of sidebar conference.)

11 19 10AM 23 MS. POLK: Thank you, Your Honor.

11 19 12AM 24 Q. Ms. Phillips, did the concept of a
 11 19 15AM 25 Journey of Power affect your thinking while you
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11 19 20AM 1 were inside the sweat lodge tent?

11 19 24AM 2 **A. I don't believe it did.**

11 19 30AM 3 **Q.** Can you tell us what the Journey of Power

11 19 33AM 4 is.

11 19 37AM 5 **A. My understanding was that it was the**

11 19 41AM 6 **courses. And they were laid with a foundation into**

11 19 45AM 7 **a pyramid. The top one was Spiritual Warrior. I**

11 19 49AM 8 **had completed my Journey of Power.**

11 19 49AM 9 **Q.** How had you completed your Journey of

11 19 53AM 10 Power?

11 19 56AM 11 **A. By attending Spiritual Warrior.**

11 20 02AM 12 **Q.** You told us, Ms. Phillips, that when you

11 20 05AM 13 got outside of the sweat lodge you had a

11 20 07AM 14 conversation with Mr. Ray?

11 20 11AM 15 **A. I had spoken to him briefly. Yes.**

11 20 14AM 16 **Q.** And that was -- what did you say to him?

11 20 18AM 17 **A. I don't recall. I was making light**

11 20 23AM 18 **conversation. It was before I noticed anything**

11 20 26AM 19 **that had happened.**

11 20 28AM 20 **Q.** Did you see him again that afternoon?

11 20 30AM 21 **A. I did not.**

11 20 32AM 22 **Q.** Did you see him again the next day?

11 20 36AM 23 **A. I did not.**

11 20 38AM 24 **Q.** Did you see him again at all at Angel

11 20 38AM 25 Valley after that light conversation with him

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11 20 40AM 1 outside the sweat lodge?

11 20 41AM 2 **A. I did not.**

11 20 43AM 3 MS. POLK: Thank you.

11 20 44AM 4 Thank you, Your Honor.

11 20 46AM 5 THE COURT: Thank you, Ms. Polk.

11 20 48AM 6 Mr. Kelly? We do have to recess at about

11 20 50AM 7 ten till. If you want to get started or we can

11 20 54AM 8 take a very brief recess right now and we can go

11 20 58AM 9 until noon.

11 21 00AM 10 Why don't we do that. Why don't we take

11 21 02AM 11 just about ten minutes and then we'll have a rather

11 21 04AM 12 short session when we come back.

11 21 05AM 13 Remember the admonition.

11 21 07AM 14 Heidi, let's try to be back in ten

11 21 09AM 15 minutes.

11 21 09AM 16 Thank you.

11 21 09AM 17 (Recess.)

11 36 03AM 18 THE COURT: The record will show the presence

11 36 04AM 19 of the defendant, Mr. Ray, the attorneys, the jury.

11 36 07AM 20 And Ms. Phillips is on the stand previously sworn.

11 36 11AM 21 Mr. Kelly, you may cross-examine.

11 36 13AM 22 MR. KELLY: Thank you.

11 36 13AM 23 CROSS-EXAMINATION

11 36 13AM 24 BY MR. KELLY:

11 36 14AM 25 **Q.** Ms. Phillips, my name is Tom Kelly. And

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11 36 17AM 1 I represent James Ray. We've never met; correct?

11 36 21AM 2 **A. No. We have not.**

11 36 22AM 3 **Q.** Have you ever testified before?

11 36 23AM 4 **A. I have.**

11 36 25AM 5 **Q.** I don't suppose you've ever testified in

11 36 28AM 6 a matter quite like this. Correct?

11 36 31AM 7 **A. Correct.**

11 36 31AM 8 **Q.** Are you a little bit nervous?

11 36 32AM 9 **A. Yes.**

11 36 33AM 10 **Q.** Okay. I want to try to get you to relax

11 36 36AM 11 and tell us a little bit about your background.

11 36 41AM 12 You're from Toronto, Canada; correct?

11 36 42AM 13 **A. I am.**

11 36 43AM 14 **Q.** And you said you're unemployed. Were you

11 36 48AM 15 previously employed somewhere?

11 36 48AM 16 **A. I haven't been working for a number of**

11 36 50AM 17 **years by choice.**

11 36 51AM 18 **Q.** Okay. Were you previously working

11 36 53AM 19 somewhere else?

11 36 54AM 20 **A. Yes.**

11 36 55AM 21 **Q.** Where was that?

11 36 55AM 22 **A. I worked at a company as a receptionist.**

11 37 00AM 23 **Q.** Was that Rogers Communication?

11 37 02AM 24 **A. No, it was not.**

11 37 03AM 25 **Q.** Okay. I misunderstood. Where --

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11 37 06AM 1 **A. It was Bronco.**

11 37 09AM 2 **Q.** And are you from Canada? Born, raised --

11 37 09AM 3 **A. Yes.**

11 37 09AM 4 **Q.** -- in Toronto?

11 37 16AM 5 And you mentioned that -- I believe you

11 37 16AM 6 saw the DVD, Secret?

11 37 18AM 7 **A. Yes.**

11 37 19AM 8 **Q.** About when was that?

11 37 20AM 9 **A. When it first came out.**

11 37 22AM 10 **Q.** Can you give me a time frame.

11 37 25AM 11 **A. Late 2006, 2007. I believe it was 2007.**

11 37 28AM 12 **Q.** And as a result of watching that DVD,

11 37 34AM 13 then you began attending the seminars that you

11 37 36AM 14 described to this jury; correct?

11 37 38AM 15 **A. After my cousin and I had watched it and**

11 37 41AM 16 **he had attended a free seminar, he called me and he**

11 37 47AM 17 **was so excited, I got excited. And we decided to**

11 37 53AM 18 **go together.**

11 37 54AM 19 **Q.** And your cousin -- is he from Canada, by

11 37 58AM 20 chance?

11 37 58AM 21 **A. He is.**

11 37 58AM 22 **Q.** Did you get to go to a free seminar?

11 38 01AM 23 **A. I did not.**

11 38 02AM 24 **Q.** So your first seminar was one of the paid

11 38 05AM 25 seminars; correct?

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11 38 05AM 1 **A. Yes, it was.**

11 38 07AM 2 **Q.** And so you and your cousin -- where was

11 38 10AM 3 that first seminar located?

11 38 13AM 4 **A. That was in Henderson. And that was in**

11 38 16AM 5 **Vegas at the Ritz.**

11 38 19AM 6 **Q.** And after that seminar -- and I wrote

11 38 24AM 7 these down yesterday -- you attended seminars in

11 38 32AM 8 San Diego, Hawaii, and Tahoe, in addition to Vegas;

11 38 32AM 9 correct?

11 38 34AM 10 **A. Correct.**

11 38 36AM 11 **Q.** And, of course, this one out in Sedona?

11 38 37AM 12 **A. Correct.**

11 38 43AM 13 **Q.** Would you agree with me -- I've never

11 38 45AM 14 been to a James Ray seminar. Okay? I've gotten to

11 38 48AM 15 know him during the last year and a half, but I

11 38 51AM 16 haven't had the --

11 38 52AM 17 **MS. POLK: Objection, Your Honor.**

11 38 55AM 18 **THE COURT: Sustained.**

11 38 56AM 19 **Q.** BY MR. KELLY: Would you agree with me

11 38 59AM 20 that the purpose of a James Ray seminar is to help

11 39 03AM 21 you -- and this is my words. That's what I'm

11 39 06AM 22 getting at, not James Ray. But to help you kind of

11 39 09AM 23 take control of your life? Is that a fair

11 39 09AM 24 statement?

11 39 09AM 25 **A. I think it's fair.**
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11 39 10AM 1 **Q.** And to help your life better; correct?

11 39 16AM 2 **A. It's to help you live your best life.**

11 39 20AM 3 **Q.** Right. And so as you go through these

11 39 24AM 4 various seminars, there are various exercises,

11 39 28AM 5 presentations, group participation, in an effort to

11 39 38AM 6 help each of these people take control of their

11 39 40AM 7 life and make their life better. Fair statement?

11 39 43AM 8 **A. Correct.**

11 39 45AM 9 **Q.** And, of course, throughout the course of

11 39 48AM 10 those seminars, you've also had the residual

11 39 54AM 11 benefit of getting to meet a bunch of great people;

11 39 54AM 12 correct?

11 39 54AM 13 **A. Correct.**

11 39 55AM 14 **Q.** And these people that go to these

11 39 56AM 15 seminars come from a diverse background?

11 40 01AM 16 **A. Yes.**

11 40 02AM 17 **Q.** I believe doctors, executives -- you

11 40 08AM 18 know -- business executives, perhaps nurses. All

11 40 14AM 19 types of different people; correct?

11 40 15AM 20 **A. Correct.**

11 40 16AM 21 **Q.** And it's my understanding that as you go

11 40 23AM 22 through these seminars, and at least as it relates

11 40 30AM 23 to Spiritual Warrior, a person is encouraged to

11 40 34AM 24 make a commitment as to a specific aspect or a few

11 40 34AM 25 aspects of their life to make that little part of
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11 40 38AM 1 their life better; correct?

11 40 43AM 2 **A. I'm not sure -- I'm not sure that -- I**

11 40 53AM 3 **think when he says that we can pick one or two**

11 40 56AM 4 **areas to work on, then it's up to us to decide**

11 41 00AM 5 **which area, which pillar, we want to work on. Yes.**

11 41 03AM 6 **Q.** Okay. So here's my example: I go to a

11 41 06AM 7 seminar and say I want to be a better dad. That

11 41 09AM 8 becomes my personal commitment and the thing that

11 41 13AM 9 I'm going to work on myself throughout the course

11 41 16AM 10 of this seminar; correct?

11 41 17AM 11 **A. Correct.**

11 41 18AM 12 **Q.** And if I wrote this down or didn't hear

11 41 22AM 13 you, forgive me. But I think you said something

11 41 25AM 14 about getting college education was one of your

11 41 28AM 15 commitments?

11 41 28AM 16 **A. No.**

11 41 30AM 17 **Q.** Okay. I misunderstood.

11 41 32AM 18 Did you have a commitment in Sedona?

11 41 35AM 19 **A. I did not know which pillar I wanted or**

11 41 40AM 20 **needed to work on, so I didn't have an idea at the**

11 41 44AM 21 **beginning.**

11 41 46AM 22 **Q.** And the pillars are spiritual, physical,

11 41 52AM 23 financial. What else?

11 41 55AM 24 **A. Mental, relational.**

11 41 59AM 25 **Q.** Mental and relational. So when you went
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11 42 00AM 1 to Sedona, you were going to focus in on one of

11 42 04AM 2 those pillars after -- after you arrived. Was that

11 42 09AM 3 the idea?

11 42 10AM 4 **A. Yes.**

11 42 10AM 5 **Q.** And so when I say I want to be a better

11 42 14AM 6 dad, that might be in the relational pillar;

11 42 18AM 7 correct?

11 42 19AM 8 **A. Correct.**

11 42 19AM 9 **Q.** I want to be closer to God. That would

11 42 22AM 10 be in the spiritual?

11 42 23AM 11 **A. Correct.**

11 42 24AM 12 **Q.** And when I say that these participants,

11 42 28AM 13 then, were taking control of -- these seminars were

11 42 32AM 14 helping the participants take control of their

11 42 34AM 15 life, they were working on these aspects of their

11 42 37AM 16 life in which they wanted to help improve; correct?

11 42 40AM 17 **A. Correct.**

11 42 40AM 18 **Q.** And James Ray and the Dream Team and the

11 42 44AM 19 materials and the games and the exercises were all

11 42 48AM 20 designed simply to help a person take control of

11 42 52AM 21 their life by improving on one of those pillars;

11 42 54AM 22 correct?

11 42 54AM 23 **A. Correct.**

11 42 58AM 24 **Q.** And -- you know -- what you don't know is

11 43 02AM 25 that -- and I've placed in front of you two
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11:43:06AM 1 exhibits marked simply for purposes of
 11:43:08AM 2 identification. They're to your right by your
 11:43:11AM 3 water.
 11:43:14AM 4 One is Exhibit 700 and the other is 702.
 11:43:17AM 5 And I'm just going to ask you the simple question,
 11:43:20AM 6 do you recognize --
 11:43:23AM 7 MS. POLK: Excuse me, Mr. Kelly. May I see
 11:43:26AM 8 those exhibits?
 11:43:27AM 9 MR. KELLY: Oh. Sure.
 11:44:08AM 10 May I approach?
 11:44:09AM 11 THE COURT: Yes.
 11:44:19AM 12 Q. BY MR. KELLY: Ms. Phillips, if you flip
 11:44:24AM 13 those exhibits over all the way to the back page,
 11:44:28AM 14 the very last page -- turn that page over. Okay.
 11:44:34AM 15 You see the little bar code on the bottom?
 11:44:37AM 16 A. Yes.
 11:44:37AM 17 Q. That little tiny, tiny number?
 11:44:39AM 18 A. Yes.
 11:44:40AM 19 Q. Okay. That's the exhibit number. And I
 11:44:43AM 20 don't know which one you have in front of you. I
 11:44:45AM 21 believe that's Exhibit 700. Correct?
 11:44:47AM 22 A. It is.
 11:44:47AM 23 Q. Okay. And if you turn the other one
 11:44:49AM 24 over, you'll see it's Exhibit 702. Correct?
 11:44:55AM 25 A. Correct.

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11:44:55AM 1 Q. Now, turn it back over so we can read
 11:44:55AM 2 them.
 11:44:56AM 3 When I look at Exhibit 700 and 702, they
 11:44:59AM 4 were provided to me by Ms. Polk. And they're
 11:45:02AM 5 transcripts of interviews of you; correct?
 11:45:04AM 6 A. Yes.
 11:45:07AM 7 Q. And 700 is an interview taken by
 11:45:07AM 8 Deputy Tieman or Teeman, if that's pronounced
 11:45:16AM 9 correct, back on October 8th, 2009; correct?
 11:45:20AM 10 A. Correct.
 11:45:21AM 11 Q. And the other exhibit, 702, is an
 11:45:26AM 12 interview by Deputy Willingham interviewed on
 11:45:31AM 13 October 20th, 2009; correct?
 11:45:32AM 14 A. Correct.
 11:45:34AM 15 Q. Okay. The reason I ask you that question
 11:45:37AM 16 is because, like I said, I had a chance to read
 11:45:40AM 17 those. And you made this comment on the -- in
 11:45:43AM 18 Exhibit 702, the Deputy Willingham interview. Do
 11:45:49AM 19 you recall telling the deputy during that
 11:45:52AM 20 telephonic interview, I really truly believe that
 11:45:55AM 21 the truth is the right way to go? I never want to
 11:46:00AM 22 speak out of turn, but I always believe the truth
 11:46:00AM 23 is the truth?
 11:46:00AM 24 A. Correct.
 11:46:01AM 25 MS. POLK: Your Honor?

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11:46:03AM 1 THE COURT: Yes.
 11:46:05AM 2 MS. POLK: May I voir dire the witness about
 11:46:07AM 3 the exhibits that are in front of her?
 11:46:11AM 4 THE COURT: Okay. Couple questions, Ms. Polk.
 11:46:11AM 5 VOIR DIRE EXAMINATION
 11:46:11AM 6 BY MS. POLK:
 11:46:17AM 7 Q. Ms. Phillips, looking at those two
 11:46:20AM 8 exhibits -- they are 700 and 702 -- have you ever
 11:46:23AM 9 seen Exhibit 700 before?
 11:46:24AM 10 A. No, I have not.
 11:46:25AM 11 Q. Has anybody ever -- you know that when
 11:46:28AM 12 you were interviewed by the deputy on
 11:46:31AM 13 October 8th, 2009, that it was recorded?
 11:46:34AM 14 A. I believe they mentioned it would be
 11:46:38AM 15 recorded.
 11:46:38AM 16 Q. And, again, when you were interviewed on
 11:46:41AM 17 October 20th of 2009, did you know you were being
 11:46:44AM 18 recorded?
 11:46:44AM 19 A. I believed it was.
 11:46:48AM 20 Q. Before sitting here on the stand today,
 11:46:51AM 21 did you ever see a transcript of those recordings?
 11:46:53AM 22 A. No.
 11:46:54AM 23 Q. And have you ever had an opportunity to
 11:46:56AM 24 compare those transcripts that are being put in
 11:46:58AM 25 front of you with the actual recording?

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11:47:01AM 1 A. No.
 11:47:01AM 2 Q. Do you know, as you sit here today,
 11:47:04AM 3 whether or not those two transcripts are even
 11:47:06AM 4 accurate? Are they an accurate reflection of what
 11:47:11AM 5 was said in the recordings?
 11:47:14AM 6 A. I wouldn't know unless I read them. And
 11:47:16AM 7 I don't know, memory 100 percent.
 11:47:20AM 8 MS. POLK: Thank you.
 11:47:20AM 9 Thank you, Your Honor.
 11:47:21AM 10 THE COURT: Ms. Polk, thank you.
 11:47:21AM 11 CROSS-EXAMINATION (Continued)
 11:47:21AM 12 BY MR. KELLY:
 11:47:30AM 13 Q. Ms. Phillips, I assure you, these are not
 11:47:31AM 14 trick questions. And if you ever need any time to
 11:47:32AM 15 sit down and review those transcripts and listen to
 11:47:34AM 16 the audiotape presented by the government to me,
 11:47:37AM 17 please tell Judge Darrow that you want to do that,
 11:47:40AM 18 and he's going to let you do it. Okay?
 11:47:43AM 19 A. Thank you.
 11:47:43AM 20 Q. All right. And so my question was, do
 11:47:47AM 21 you recall making that statement to the deputy --
 11:47:48AM 22 and I'm going to read it again -- I really truly --
 11:47:52AM 23 MS. POLK: Your Honor, I object to the reading
 11:47:55AM 24 into the record of -- from some transcript that we
 11:47:57AM 25 don't even know is accurate.

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11:48:01AM 1 MR. KELLY: Can I ask my question, Judge?
 11:48:04AM 2 THE COURT: It entails reading from the
 11:48:07AM 3 transcript. You know, as the trial gets started,
 11:48:10AM 4 there are going to be some things that come up and
 11:48:13AM 5 we're going to take care of them in a context other
 11:48:16AM 6 than up here at this bench with the -- with the
 11:48:19AM 7 jury and everybody just sitting here.

11:48:21AM 8 What we are going to do right now is go
 11:48:23AM 9 right into the lunch recess. I'm going to ask the
 11:48:26AM 10 attorneys to remain. Ladies and gentlemen, we'll
 11:48:30AM 11 do that --

11:48:31AM 12 First of all, Ms. Phillips, I want to
 11:48:34AM 13 excuse you so you're not sitting there. You are
 11:48:36AM 14 excused. Remember the rule. Please step down at
 11:48:39AM 15 this time.

11:48:39AM 16 There are a few things I want to take up
 11:48:41AM 17 with the jury.

11:48:42AM 18 I'll let everyone know we're going to
 11:48:44AM 19 resume at 1:30, but I have a few things I want to
 11:48:48AM 20 say to the jury before we break. Just some
 11:48:51AM 21 observations. And I know -- I think most of you
 11:48:54AM 22 have not been on juries previously. But it's just
 11:48:58AM 23 very important that you not talk to each other.

11:49:00AM 24 Apparently there's a little bit of
 11:49:05AM 25 allergy type things going around or other things

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11:49:07AM 1 and people are coughing. And it makes it difficult
 11:49:10AM 2 to hear. If anything is said in court and you
 11:49:13AM 3 didn't hear it, don't hesitate. Let me know. We
 11:49:17AM 4 will get it repeated so that you hear everything.

11:49:20AM 5 So what you don't want to do is turn to
 11:49:24AM 6 your neighbor and say -- you know -- did you hear
 11:49:26AM 7 this? I'm not saying that's going on, but there's
 11:49:28AM 8 a little indication maybe a little communication.
 11:49:31AM 9 And that needs to be avoided.

11:49:33AM 10 And I've had this come up in instances
 11:49:35AM 11 too where people are formulating questions for
 11:49:41AM 12 witnesses and they want to lobby it. Well, what do
 11:49:44AM 13 you think about that? And your questions are your
 11:49:47AM 14 questions. Remember that part of the admonition
 11:49:49AM 15 where you can't talk to one another at all about
 11:49:52AM 16 the case until it's over.

11:49:53AM 17 If you talk about what kind of questions
 11:49:56AM 18 you want to be asking, either here or outside the
 11:50:00AM 19 courtroom, that is against the admonition. So you
 11:50:05AM 20 can't do that.

11:50:06AM 21 Another thing I want to mention here
 11:50:10AM 22 before we take the lunch break is people sometimes
 11:50:13AM 23 get tired. And that seems to happen more so after
 11:50:16AM 24 lunch. If that happens, if somebody really feels
 11:50:16AM 25 tired to the point where you think you're losing

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11:50:18AM 1 attention, let me know. We'll take a break. Don't
 11:50:22AM 2 let that happen. If you're getting tired -- and as
 11:50:25AM 3 I've indicated, seems to me that happens more often
 11:50:29AM 4 after lunch -- I need to know so that we don't have
 11:50:33AM 5 that be a problem.

11:50:34AM 6 I also want to make sure that you're not
 11:50:36AM 7 distracted by anything in the courtroom, whether
 11:50:39AM 8 it's something I'm doing or something anywhere, any
 11:50:42AM 9 of the parties, anything is happening. If that's
 11:50:45AM 10 the case, raise your hand, let Ms. Rybar know
 11:50:50AM 11 what the issue is, and that will be addressed.

11:50:53AM 12 I just wanted to cover those basic
 11:50:55AM 13 things. We're going to assemble at 1:30. Remember
 11:51:02AM 14 the admonition. And you are excused.

11:51:02AM 15 (Proceedings continued outside presence
 11:51:02AM 16 of jury.)

11:51:39AM 17 Thank you. Please be seated. The jury
 11:51:40AM 18 has exited. I want to make sure that the witness
 11:51:43AM 19 is not present. Ms. Phillips has left the
 11:51:46AM 20 courtroom also.

11:51:48AM 21 As I have indicated, if these things are
 11:51:52AM 22 going to come up, we need to talk about them now in
 11:51:55AM 23 a context other than a bench conference because
 11:51:58AM 24 that's just too inconvenient. And we need to
 11:51:58AM 25 address them in a more suitable fashion.

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11:52:02AM 1 So, Mr. Kelly, whoever wants to start, we
 11:52:05AM 2 need to get the correct process going if you're
 11:52:08AM 3 going to be impeaching with a prior statement or
 11:52:12AM 4 whatever you intend to do.

11:52:14AM 5 MR. KELLY: Judge, as a preliminary matter, we
 11:52:16AM 6 were provided audiotapes of police officer
 11:52:18AM 7 interviews of all the state and defense witnesses.
 11:52:22AM 8 We had those audiotapes transcribed, then we
 11:52:26AM 9 invited the State of Arizona to listen to the
 11:52:30AM 10 audiotape and compare it to the transcript for its
 11:52:37AM 11 accuracy. Because we tried our best to make it
 11:52:42AM 12 absolutely as accurate as possible.

11:52:43AM 13 If there's any allegation it's not
 11:52:45AM 14 accurate, the only thing I can avow to the Court,
 11:52:47AM 15 we tried to make it as accurate as possible.

11:52:52AM 16 Now, if there's an objection about
 11:52:54AM 17 impeaching the credibility of a witness with a
 11:52:57AM 18 prior inconsistent statement, I don't know. I
 11:53:04AM 19 mean, I've done this for a long time. I've never
 11:53:06AM 20 been precluded from impeaching credibility with
 11:53:10AM 21 prior inconsistent statement and also reference to
 11:53:12AM 22 the transcripts of the proper method to do that.

11:53:16AM 23 THE COURT: Ms. Polk, you were objecting.

11:53:19AM 24 MS. POLK: Your Honor, I'm objecting on a
 11:53:21AM 25 couple of grounds. First of all, the state didn't

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11:53:24AM 1 provide the audio to the defense. We asked them
 11:53:28AM 2 for copies of the transcripts. They did not give
 11:53:31AM 3 us copies, refused to give us copies, and then we
 11:53:35AM 4 only got these copies when they had them marked as
 11:53:41AM 5 exhibits for trial. And that was just within the
 11:53:41AM 6 last couple of weeks.

11:53:42AM 7 But -- and when I look at these copies,
 11:53:48AM 8 Judge, for example, the one I'm looking at with
 11:53:49AM 9 regard to Ms. Phillips, there's a lot of
 11:53:51AM 10 "inaudibles." We don't know if there's really
 11:53:55AM 11 inaudibles or not. It's their transcriptionist who
 11:53:58AM 12 is deciding what is inaudible, deciding what
 11:54:00AM 13 they're going to put in here. But these
 11:54:03AM 14 transcripts, just looking at it, have a lot of
 11:54:06AM 15 inaudibles.

11:54:06AM 16 My bigger objection that -- I have a
 11:54:08AM 17 problem with using the transcript, not knowing if
 11:54:11AM 18 it's accurate. But my bigger objection is to
 11:54:13AM 19 impeaching without following the procedure on how
 11:54:16AM 20 to impeach.

11:54:18AM 21 The rules make it clear -- Rule 613 --
 11:54:21AM 22 that if Mr. Kelly wants to use extrinsic evidence
 11:54:26AM 23 of a prior inconsistent statement, first he has to
 11:54:29AM 24 afford the witness the opportunity to explain or
 11:54:32AM 25 deny it. And before then he is reading into the
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11:54:37AM 1 record what the statement is that he wishes to
 11:54:39AM 2 impeach, he needs to say to her did you say on
 11:54:42AM 3 October 8th that it was a search for the truth, or
 11:54:45AM 4 whatever his question was.

11:54:46AM 5 If she says yes, she has been impeached,
 11:54:49AM 6 and you move on. You don't then get to introduce
 11:54:53AM 7 into the record what the statement is.

11:54:55AM 8 So first of all, he didn't afford her the
 11:54:58AM 9 opportunity to admit or deny the statement that he
 11:55:01AM 10 was trying to get admitted. That's my first
 11:55:04AM 11 problem.

11:55:04AM 12 Secondly, then, Rule 19.3 of the Rules of
 11:55:13AM 13 Criminal Procedure, B, states that no prior
 11:55:15AM 14 statement of a witness may be admitted for the
 11:55:17AM 15 purpose of impeachment unless it varies materially
 11:55:22AM 16 from the witness's testimony at trial.

11:55:23AM 17 He is shortcutting. He is reading into
 11:55:25AM 18 the record these prior statements. He hasn't given
 11:55:28AM 19 her the opportunity to admit or deny it. And then,
 11:55:34AM 20 secondly, he's making it part of the record without
 11:55:37AM 21 establishing that there is a prior inconsistent
 11:55:40AM 22 that is materially different.

11:55:40AM 23 So I would just ask that he -- Mr. Kelly
 11:55:43AM 24 follow the rules, allow the witness the opportunity
 11:55:47AM 25 to admit or deny. If she denies it, then yes, he
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11:55:50AM 1 can proceed to the next step and impeach her with a
 11:55:53AM 2 prior statement. If she admits it, then she has
 11:55:56AM 3 been impeached, and then you move on.

11:55:58AM 4 THE COURT: And I wanted to know the basis of
 11:56:01AM 5 your objection. And you've said 613. But let's
 11:56:05AM 6 cover each of the problems one at a time.

11:56:08AM 7 The first one concerning the accuracy of
 11:56:11AM 8 the transcript. If you read 613(a), examining
 11:56:15AM 9 witnesses concerning prior statement -- and I'll
 11:56:18AM 10 read it. I guess you both have your books open
 11:56:21AM 11 there. But in examining a witness concerning a
 11:56:23AM 12 prior statement made by the witness, whether
 11:56:26AM 13 written or not, the statement need not be shown nor
 11:56:29AM 14 its contents disclosed to the witness at that time.
 11:56:32AM 15 But on request the same shall be shown or disclosed
 11:56:35AM 16 to opposing counsel.

11:56:38AM 17 You see it. If there's an inaccuracy, I
 11:56:41AM 18 think the time to correct that is with your correct
 11:56:44AM 19 transcript later. So there's no need even to show
 11:56:48AM 20 the transcript until it's actually happening.

11:56:53AM 21 So that's how I think we're going to be
 11:56:56AM 22 dealing with accurate transcripts. It's going to
 11:56:58AM 23 be a question of cross-examination.

11:57:00AM 24 Does anybody dispute that?

11:57:02AM 25 MS. POLK: Your Honor, the prior statement is
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11:57:06AM 1 the audio. We did not get these transcripts until
 11:57:10AM 2 a week or so ago and have not -- and it's the
 11:57:14AM 3 witness who would know whether or not they are
 11:57:16AM 4 accurate. I'm not a party to that conversation.
 11:57:19AM 5 It's only parties to the conversation who can
 11:57:23AM 6 listen to the audio and decide whether or not the
 11:57:26AM 7 transcript is accurate. So the appropriate
 11:57:30AM 8 out-of-court statement to impeach with is the audio
 11:57:32AM 9 and not the transcript.

11:57:32AM 10 And then secondly, what Mr. Kelly has
 11:57:35AM 11 done before even asking the witness, confronting
 11:57:38AM 12 her, affording her with an opportunity to admit or
 11:57:41AM 13 deny a statement, he's giving her these transcripts
 11:57:44AM 14 to read.

11:57:46AM 15 MR. KELLY: Judge, may I --

11:57:48AM 16 THE COURT: Yes.

11:57:48AM 17 MR. KELLY: I was trying to be polite. I
 11:57:51AM 18 showed her what the transcript was. I explained to
 11:57:53AM 19 her what the transcripts were. Then I ask her a
 11:57:57AM 20 question. And the question was do you recall
 11:57:59AM 21 telling the investigating officer I believe the
 11:58:01AM 22 truth is always the right way to go? She said yes.

11:58:05AM 23 Then I was interrupted and voir dire for
 11:58:07AM 24 some reason, which I don't understand, and now some
 11:58:10AM 25 basis of an objection. It cannot be that the
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11:58:14AM 1 government is saying that we're going to impeach
 11:58:16AM 2 the truth or credibility of a witness with a prior
 11:58:19AM 3 statement that says, hey, I believe I always tell
 11:58:22AM 4 the truth. She agreed to it. I was moving on.

11:58:25AM 5 The purpose of showing her Exhibit 702
 11:58:28AM 6 and 700 was simply to expedite this trial. I put
 11:58:32AM 7 them up there in case she ever denied one of her
 11:58:36AM 8 statements made on a prior occasion. Then I was
 11:58:39AM 9 going to ask her to flip to the page and the line
 11:58:41AM 10 number and impeach her credibility. All she said
 11:58:44AM 11 was yes, I made that statement. So there was no
 11:58:47AM 12 point in time at that point.

11:58:48AM 13 And if Ms. Polk is objecting to using the
 11:58:52AM 14 transcripts versus the audio statement itself, we
 11:58:57AM 15 can go that route. But, like Mr. Li said, I think
 11:59:01AM 16 I'm just going to have to buy a home here. We're
 11:59:03AM 17 trying to speed this up.

11:59:04AM 18 And I've done this a lot of times in
 11:59:08AM 19 Yavapai County. I've always been entitled to hand
 11:59:09AM 20 them exhibits, hand them up to you, and then ask
 11:59:10AM 21 the question, did you say you saw the dog run
 11:59:12AM 22 across the street to Deputy Willingham? Please
 11:59:15AM 23 read your answer. Yes, I did. And then we move on
 11:59:18AM 24 if the precursor to that was, no, I didn't see the
 11:59:23AM 25 dog cross the street.

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11:59:24AM 1 So I guess I don't quite understand. I
 11:59:27AM 2 think these transcripts are accurate. The witness
 11:59:32AM 3 said -- the government is the owner of the
 11:59:35AM 4 audiotape. They had plenty of time to prepare
 11:59:37AM 5 their witness. She agreed that she told the deputy
 11:59:40AM 6 she likes to tell the truth. That's as far as
 11:59:43AM 7 we've gotten.

11:59:46AM 8 THE COURT: I'm wondering why -- here's what I
 11:59:51AM 9 see: If there is a -- if there's testimony that
 11:59:53AM 10 would be relevant and it's presented to the witness
 11:59:59AM 11 in a leading fashion, I don't see any reason to
 12:00:02PM 12 even bring in the transcript if the witness agrees.

12:00:06PM 13 Why would there even be reference to the
 12:00:09PM 14 transcript? In other words, this is what you said
 12:00:09PM 15 back in October of last year. And then you read
 12:00:12PM 16 it. That is interjecting a form of extrinsic
 12:00:16PM 17 evidence before there -- there might not even be
 12:00:18PM 18 any need to even talk about a transcript. Because
 12:00:21PM 19 I don't know why the transcript would come up right
 12:00:23PM 20 at that time.

12:00:24PM 21 MR. KELLY: Judge, please understand, again,
 12:00:28PM 22 all I was trying to do was be courteous to the
 12:00:30PM 23 witness and explain the documents in front of her.
 12:00:32PM 24 I never referred to the transcript. The question
 12:00:32PM 25 was specifically, do you recall telling

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12:00:36PM 1 Deputy Willingham back on October 20th, 2009, that
 12:00:38PM 2 I always tell the truth, and then the objection.

12:00:42PM 3 THE COURT: So referring back to a prior
 12:00:44PM 4 statement before there's any inconsistency in a
 12:00:48PM 5 statement that's been made at trial --

12:00:52PM 6 MR. KELLY: Referring back to what you told
 12:00:54PM 7 the investigating officer on the day of the event
 12:00:58PM 8 when your memory is --

12:00:58PM 9 THE COURT: Well, that's -- correct. Now,
 12:01:01PM 10 that would be the point. If that's what -- if
 12:01:03PM 11 that's what you're setting up --

12:01:05PM 12 MR. KELLY: Of course.

12:01:05PM 13 THE COURT: -- in order to do that, correct.
 12:01:07PM 14 And I'm glad we're going through this because it's
 12:01:07PM 15 going to come up, I would imagine, in a number of
 12:01:13PM 16 other witnesses. So that's the point of when the
 12:01:15PM 17 statement was made.

12:01:16PM 18 Ms. Polk?

12:01:17PM 19 MS. POLK: Your Honor, the audio and the
 12:01:19PM 20 transcripts are hearsay. They are out-of-court
 12:01:23PM 21 statements. What comes in at trial is testimony
 12:01:26PM 22 from a witness. If you want to use something that
 12:01:30PM 23 is hearsay as a prior inconsistent statement, you
 12:01:33PM 24 have to follow the rules to get it in.

12:01:35PM 25 So you can ask the witness, did you tell
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12:01:38PM 1 the deputy that you always tell the truth? She
 12:01:42PM 2 says yes, then you move on. If she says no, then
 12:01:45PM 3 you can say, well, on October 8th didn't you tell
 12:01:48PM 4 the deputy that you always tell the truth?

12:01:50PM 5 Mr. Kelly -- what would stop him from
 12:01:53PM 6 reading the entire transcript into the record if he
 12:01:58PM 7 is allowed to start going over hearsay,
 12:01:59PM 8 out-of-court statements, instead of having the
 12:02:02PM 9 witness testify live? You only get to start
 12:02:05PM 10 talking about the hearsay, the out-of-court
 12:02:08PM 11 statements, when she's been afforded an opportunity
 12:02:10PM 12 to admit or deny the statement.

12:02:12PM 13 And so what the rules require is you
 12:02:16PM 14 confront her with a statement, did you tell the
 12:02:18PM 15 detective that the light was green on October 8?
 12:02:21PM 16 Yes, I did. Then she's admitted it. You don't
 12:02:26PM 17 confront her. If she says, no, I didn't, then you
 12:02:29PM 18 confront her with a prior inconsistent statement.

12:02:32PM 19 Mr. Kelly wants to not have this witness
 12:02:36PM 20 testify live but instead read from this transcript,
 12:02:38PM 21 which is out-of-court hearsay.

12:02:41PM 22 THE COURT: And, of course, the importance of
 12:02:43PM 23 an earlier statement -- the importance could be if
 12:02:47PM 24 it's different from something that was said at a
 12:02:49PM 25 later time. And that hasn't been shown.

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12:02:54PM 1 MR. KELLY: Her statement is not hearsay,
 12:02:56PM 2 Judge, at any time.
 12:02:57PM 3 THE COURT: Here's what we're going to do,
 12:03:00PM 4 people -- you know -- after all these trials -- and
 12:03:03PM 5 this issue doesn't come up much. I've wondered
 12:03:05PM 6 some time about the manners -- manner of impeaching
 12:03:08PM 7 and how that happens. But we're not going to argue
 12:03:13PM 8 about it further here.
 12:03:14PM 9 Read 613 and proceed as contemplated by
 12:03:19PM 10 Rule 613 and the hearsay rules. Those are the
 12:03:23PM 11 rules that apply.
 12:03:24PM 12 We're going to recess. I'm going to ask
 12:03:25PM 13 that the attorneys be back by 20 after 1:00.
 12:03:28PM 14 Thank you.
 12:04:00PM 15 (Recess.)
 12:04:00PM 16 THE COURT: The record will reflect the
 01:26:23PM 17 presence of Mr. Ray and the attorneys.
 01:26:24PM 18 I just want to discuss basic 613 and 801
 01:26:31PM 19 law. Has everyone reviewed the law so we're not
 01:26:34PM 20 going to have this issue again?
 01:26:36PM 21 I'll say what I think needs to be said.
 01:26:39PM 22 But I understand, Mr. Kelly, that in many trials
 01:26:43PM 23 procedures are abbreviated. Someone might not make
 01:26:47PM 24 an issue of something. But the rules are there.
 01:26:49PM 25 And it's not improperly making an issue of
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01:26:52PM 1 something to require compliance with the rules.
 01:26:58PM 2 I know that oftentimes they're
 01:27:00PM 3 abbreviated and people proceed. But the rules are
 01:27:08PM 4 there. And if they're going to be invoked, then
 01:27:12PM 5 that's what's going to happen.
 01:27:14PM 6 MR. KELLY: Judge, so I'm clear, I placed in
 01:27:17PM 7 front of the witness the two transcripts,
 01:27:19PM 8 Exhibit 700 and 702, marked for the purposes of
 01:27:23PM 9 identification only.
 01:27:27PM 10 If she made a statement today which was
 01:27:34PM 11 materially different than a statement she made to
 01:27:37PM 12 the investigating officers on October in 2009, are
 01:27:42PM 13 you saying I cannot use those transcripts to
 01:27:45PM 14 impeach her testimony?
 01:27:46PM 15 THE COURT: No. We got two different issues.
 01:27:49PM 16 We went through this on a 404(b), a lot of this but
 01:27:52PM 17 not so much the content of the statement. Without
 01:27:58PM 18 me getting back into realtime, when were the
 01:28:04PM 19 statements -- this form of the statement -- we've
 01:28:07PM 20 got to be careful.
 01:28:08PM 21 There is a different meaning of
 01:28:11PM 22 statements under the Rules of Criminal Procedure
 01:28:11PM 23 and Disclosure and under the Rules of Evidence.
 01:28:11PM 24 MR. KELLY: Correct.
 01:28:14PM 25 THE COURT: But when were the actual forms of
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01:28:17PM 1 this transcript provided to Ms. Polk?
 01:28:23PM 2 MR. KELLY: Judge, with your permission, can I
 01:28:26PM 3 have Ms. Do --
 01:28:27PM 4 THE COURT: Yes. Whoever has the information
 01:28:29PM 5 on that. Ms. Polk might be able to tell me when
 01:28:29PM 6 she got --
 01:28:35PM 7 When did you get the transcript,
 01:28:37PM 8 Ms. Polk.
 01:28:37PM 9 MS. POLK: Your Honor, I believe it was the
 01:28:38PM 10 first day of trial. We were given the CD. And I
 01:28:42PM 11 can stand corrected by Ms. Do as to the time, but
 01:28:44PM 12 at some point we were given a CD with copies of all
 01:28:48PM 13 of the defense exhibits.
 01:28:50PM 14 MS. DO: I believe that is correct, Your
 01:28:51PM 15 Honor. It was on the same date or near the same
 01:28:53PM 16 date that both parties exchanged their trial
 01:28:55PM 17 exhibits.
 01:28:56PM 18 However, several weeks before we started
 01:28:59PM 19 trial, the defense had written to Ms. Polk and
 01:29:02PM 20 offered to give her copies, invited the state to
 01:29:05PM 21 take the opportunity to review the transcripts that
 01:29:09PM 22 we had prepared for accuracy, and that we would be
 01:29:12PM 23 more than happy to make any corrections or changes
 01:29:15PM 24 if they felt they were necessary.
 01:29:17PM 25 We also asked that the state upon
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01:29:19PM 1 reviewing it agree, as we've agreed to many of
 01:29:22PM 2 their exhibits, to just marking them and, if the
 01:29:25PM 3 foundation is laid at trial, to expedite that
 01:29:28PM 4 process. The state declined that offer, and this
 01:29:31PM 5 is where we are.
 01:29:32PM 6 THE COURT: Okay. I'm not clear on something.
 01:29:37PM 7 What was provided earlier -- I want to know when
 01:29:41PM 8 Ms. Polk first had the form of statement that
 01:29:44PM 9 Mr. Kelly has up here now. That's what I want to
 01:29:46PM 10 know. When did that first happen?
 01:29:49PM 11 MS. DO: Around the date that Ms. Polk
 01:29:51PM 12 indicated.
 01:29:51PM 13 THE COURT: Okay. And then what happened at
 01:29:52PM 14 the prior date?
 01:29:53PM 15 MS. DO: The prior date refers to when we had
 01:29:56PM 16 offered to provide advanced copies for review of
 01:30:00PM 17 accuracy. And that was declined.
 01:30:01PM 18 THE COURT: Okay.
 01:30:02PM 19 Ms. Polk.
 01:30:02PM 20 MS. POLK: Yes, Your Honor. That's not quite
 01:30:08PM 21 accurate. The state had requested copies of the
 01:30:08PM 22 transcript. We received a letter from the defense
 01:30:11PM 23 stating that they would provide us with copies of
 01:30:13PM 24 the transcripts but only if I would agree to their
 01:30:15PM 25 use at trial.
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01 30 16PM 1 For the same reasons that I've objected
 01 30 18PM 2 today, I was not willing to agree. I don't know if
 01 30 20PM 3 they're accurate or not. I indicated I was not
 01 30 22PM 4 willing to agree to their use at trial. But I
 01 30 24PM 5 wanted copies. And I received a letter from the
 01 30 26PM 6 defense saying that they would then not give us
 01 30 28PM 7 copies because I would not agree to their use. So
 01 30 30PM 8 I did not see them until they were provided on the
 01 30 32PM 9 first day of trial.

01 30 34PM 10 THE COURT: Okay. And, as I've indicated, the
 01 30 36PM 11 rule only requires that at your request the
 01 30 38PM 12 statements be shown. So that's happened. I know
 01 30 40PM 13 they're transcripts. And you're saying the
 01 30 42PM 14 statements are on recordings. But I would assume
 01 30 44PM 15 this is a good-faith transcript.

01 30 46PM 16 In order to ask a cross-examination
 01 31 01PM 17 question, there has to be a good-faith basis.
 01 31 03PM 18 That's the general test. So that's been done.

01 31 05PM 19 I may have said cross-examination before
 01 31 12PM 20 I misspoke. What I meant at this point is if there
 01 31 13PM 21 is some inaccuracy in the transcript that's been
 01 31 15PM 22 given, that's to be addressed on redirect with your
 01 31 18PM 23 transcript or whatever you have from the recording.
 01 31 22PM 24 So that part has been taken care of.

01 31 24PM 25 Now, the second part is just the basic
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01 31 28PM 1 rule and the exception to -- it's not an exception
 01 31 34PM 2 to hearsay. It's just not hearsay. Under 801(d)
 01 31 38PM 3 statements which are not hearsay. A statement is
 01 31 43PM 4 not hearsay if -- and then the one we're talking
 01 31 46PM 5 about here is inconsistent with the declarant's
 01 31 50PM 6 testimony.

01 31 50PM 7 So until there's some inconsistency with
 01 31 55PM 8 the declarant's testimony, it's just hearsay. It
 01 31 57PM 9 can't be repeated. It's an out-of-court statement
 01 31 59PM 10 offered for the proof of the matter asserted unless
 01 32 02PM 11 it's inconsistent.

01 32 04PM 12 There are subtle issues that can arise if
 01 32 06PM 13 a witness is on the stand and says, I don't
 01 32 08PM 14 remember about that incident. And then there's a
 01 32 10PM 15 question. Is that prior statement that was given
 01 32 13PM 16 much closer in time? Is that really an
 01 32 17PM 17 inconsistent statement? And I think the law in
 01 32 18PM 18 Arizona, as I've seen it before, is I think it
 01 32 21PM 19 still requires findings by the Court as to whether
 01 32 25PM 20 a witness with no memory of the incident when
 01 32 28PM 21 testifying, if the prior statement when there was a
 01 32 35PM 22 statement, is that, in fact, actually an
 01 32 37PM 23 inconsistent statement? That's a different
 01 32 38PM 24 question.

01 32 38PM 25 Most states, I believe -- and I think
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01 32 39PM 1 Arizona, although the law is quite old on it,
 01 32 42PM 2 requires findings by the Court before that prior
 01 32 45PM 3 statement can come in. And I'm sure you're
 01 32 47PM 4 probably aware of that.

01 32 48PM 5 Now, I don't know that we're going to get
 01 32 50PM 6 into that. But if you want to get into
 01 32 52PM 7 complications and the fine points that don't
 01 32 54PM 8 normally come up, that's one.

01 32 56PM 9 I expect the rules to be followed. And
 01 32 58PM 10 if there's objections because there's a hearsay
 01 33 01PM 11 statement coming on, just a prior statement with no
 01 33 04PM 12 showing that it's inconsistent, that's hearsay.

01 33 08PM 13 What am I possibly missing, Mr. Kelly?

01 33 11PM 14 MR. KELLY: Judge, I just want -- I want to
 01 33 15PM 15 pose a hypothetical. If I ask the question, which
 01 33 21PM 16 was the question which was objected to: Did you
 01 33 24PM 17 tell Deputy Willingham on August -- excuse me --
 01 33 28PM 18 October 20th, 2009, I really truly believe that the
 01 33 32PM 19 truth is the way to go, are you saying that's
 01 33 37PM 20 soliciting a hearsay response because it was made
 01 33 40PM 21 on a prior occasion?

01 33 41PM 22 THE COURT: Ms. Polk, you objected to that.

01 33 45PM 23 MS. POLK: Yes. And it's --

01 33 46PM 24 THE COURT: Go ahead.

01 33 47PM 25 MS. POLK: And it's clearly hearsay.

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01 33 48PM 1 THE COURT: Yes. That objection would be
 01 33 50PM 2 sustained.

01 33 50PM 3 That's a prior statement. It's
 01 33 52PM 4 inconsistent to what -- I hear questions sometimes
 01 33 56PM 5 to witnesses. Well, you have -- whether they
 01 33 58PM 6 agreed that it's important to tell the truth every
 01 34 01PM 7 time, I suppose if they say no, I don't think that
 01 34 04PM 8 you have a prior statement that says, well, you
 01 34 06PM 9 told the officer a year and a half ago you think it
 01 34 09PM 10 is important. Then there is a prior inconsistent
 01 34 12PM 11 statement.

01 34 12PM 12 But just to bring in a prior statement
 01 34 15PM 13 that's not inconsistent with testimony, that's just
 01 34 19PM 14 hearsay. And I -- we went through this at the
 01 34 22PM 15 404(b). And I thought that was going to be ironed
 01 34 25PM 16 out. I didn't know that was going to come up again
 01 34 27PM 17 today.

01 34 28PM 18 MR. KELLY: Judge, with all due respect,
 01 34 31PM 19 801(c) says hearsay is a statement other than the
 01 34 35PM 20 one made by the declarant. I'm asking the
 01 34 40PM 21 declarant did you say in October of 2009 that it
 01 34 43PM 22 was hot inside the sweat lodge?

01 34 46PM 23 THE COURT: No. You got to read the whole
 01 34 48PM 24 thing. Other than made by the declarant while
 01 34 51PM 25 testifying at the trial. It's got to be a

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01 34 54PM 1 statement made other than while testifying at
01 34 57PM 2 trial. Because to get up and say I wrote this
01 35 00PM 3 letter two years ago and here's what it says,
01 35 03PM 4 that's not inconsistent.

01 35 06PM 5 So yes. It has to be an inconsistency
01 35 11PM 6 established with the testimony here that can arise
01 35 14PM 7 on cross-examination obviously or can arise out of
01 35 18PM 8 the original testimony, the testimony in direct.

01 35 22PM 9 And again, I think I misspoke. But what
01 35 25PM 10 I was talking about before, Ms. Polk, at this point
01 35 27PM 11 if there are issues with the accuracy of the
01 35 30PM 12 transcript that's been written and provided, that's
01 35 33PM 13 going to be for redirect.

01 35 35PM 14 Counsel, anything else?

01 35 38PM 15 MR. KELLY: No, Judge. I'll just rephrase the
01 35 41PM 16 form of the question.

01 35 41PM 17 THE COURT: Thank you.

01 35 42PM 18 I'm going to get the jury, then I'll be
01 35 44PM 19 back in.

01 35 44PM 20 (Proceedings continued in the presence of
01 36 30PM 21 jury.)

01 36 30PM 22 The record will show the presence of
01 40 01PM 23 defendant, Mr. Ray, and counsel. The jury has
01 40 02PM 24 returned. Ms. Phillips is on the stand.

01 40 08PM 25 Mr. Kelly, you may continue with your
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01 40 08PM 1 cross-examination.

01 40 09PM 2 MR. KELLY: Thank you, Judge.

01 40 10PM 3 Q. Ms. Phillips, right before the break I
01 40 16PM 4 asked you whether you truly believe that the truth
01 40 20PM 5 is the way to go; correct?

01 40 21PM 6 A. Correct.

01 40 22PM 7 Q. And you do your best at all times to
01 40 30PM 8 recollect truthfully your memory of specific
01 40 34PM 9 events; correct?

01 40 35PM 10 A. Correct.

01 40 35PM 11 Q. And you believe that there may be
01 40 38PM 12 different perceptions of truth depending on the
01 40 43PM 13 perspectives a particular observer may have in
01 40 48PM 14 regards to a particular event; correct?

01 40 50PM 15 A. Correct.

01 40 50PM 16 Q. Now, I --

01 40 55PM 17 MR. KELLY: If I may I approach, Judge?

01 40 57PM 18 THE COURT: Yes, you may.

01 41 00PM 19 Q. BY MR. KELLY: I'm going to hand you
01 41 01PM 20 what's been marked as Exhibit 138. Do you -- do
01 41 13PM 21 you recognize that document?

01 41 22PM 22 A. I don't recognize it. I do recognize the
01 41 24PM 23 title of "Spiritual Warrior."

01 41 24PM 24 Q. Take a minute and try to remember whether
01 41 28PM 25 or not you received that document with your

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01 41 31PM 1 Spiritual Warrior participant guide back in 2009.

01 42 03PM 2 A. This could definitely have been included.

01 42 07PM 3 I haven't looked at the material in some time, and

01 42 10PM 4 I don't recall.

01 42 10PM 5 Q. Does Exhibit 138 indicate the title

01 42 13PM 6 "Spiritual Warrior"?

01 42 14PM 7 A. It does.

01 42 15PM 8 Q. Does it show the location in Sedona,

01 42 18PM 9 Arizona?

01 42 18PM 10 A. It shows Sedona, Arizona. Yes.

01 42 21PM 11 Q. Does it show the dates of the seminar?

01 42 24PM 12 A. Yes, it does.

01 42 25PM 13 Q. Does it show the cost of the seminar?

01 42 27PM 14 A. It does.

01 42 28PM 15 Q. And does it show some general pictures

01 42 32PM 16 of -- background information related to the
01 42 34PM 17 seminar?

01 42 34PM 18 A. It has a picture of the mountain. Yes.

01 42 38PM 19 Q. And does it have some words and content
01 42 41PM 20 describing the scope and purpose of the seminar?

01 42 43PM 21 A. Yes, it does.

01 42 44PM 22 MR. KELLY: Your Honor, I'd move to admit 138.

01 42 48PM 23 MS. POLK: No objection.

01 42 48PM 24 THE COURT: Exhibit 138 is admitted.

01 42 56PM 25 MR. KELLY: And may we publish it to the jury,
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01 42 59PM 1 Judge?

01 42 59PM 2 THE COURT: Yes.

01 43 02PM 3 (Exhibit 138 admitted.)

01 43 02PM 4 Q. BY MR. KELLY: Ms. Phillips, you have the
01 43 17PM 5 actual exhibit. What's up on the screen is a copy
01 43 20PM 6 of it, Ms. Phillips. But the title of
01 43 22PM 7 Exhibit 138 -- not the title, but in bold on the
01 43 26PM 8 top it indicates that if you're going to attend
01 43 30PM 9 this seminar, you've got to be willing to color
01 43 34PM 10 outside the lines; correct?

01 43 35PM 11 A. Correct.

01 43 35PM 12 Q. And I think -- in the body somewhere --

01 43 38PM 13 A. Would you care to have this back?

01 43 41PM 14 Q. That would help me. Thank you, ma'am.

01 43 53PM 15 It indicates that you'll accelerate the

01 43 57PM 16 releasing of your limitations and push yourself
01 44 00PM 17 past self-imposed and conditioned borders. No more
01 44 03PM 18 coloring inside the lines; correct?

01 44 05PM 19 A. Correct.

01 44 06PM 20 Q. So what does that mean to you?

01 44 08PM 21 A. It meant to me that we were going to be
01 44 11PM 22 doing some neat things and growing and expanding.

01 44 18PM 23 Q. It says further down you'll define and
01 44 25PM 24 enforce your own boundaries without someone else
01 44 30PM 25 telling you what they should be; correct?

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- 01 44 33PM 1 **A. It does say that. Yes.**
- 01 44 35PM 2 **Q.** And you remember earlier before lunch I
- 01 44 37PM 3 talked about the purpose of James Ray's seminars,
- 01 44 39PM 4 and it was specifically the Spiritual Warrior, to
- 01 44 41PM 5 help you take control of your life. Do you recall
- 01 44 43PM 6 those questions?
- 01 44 45PM 7 **A. Yes.**
- 01 44 47PM 8 **Q.** And this is consistent with that, that
- 01 44 49PM 9 you'll experience at the spiritual level ancient
- 01 45 01PM 10 methodologies of samurai warriors and gain a true
- 01 45 03PM 11 understanding of the authority and strength that
- 01 45 05PM 12 come from a life of honor; correct?
- 01 45 07PM 13 **A. Correct.**
- 01 45 09PM 14 **Q.** And you've told us repeatedly that
- 01 45 11PM 15 integrity, commitment, honor were themes of this
- 01 45 13PM 16 game that was played at the Spiritual Warrior;
- 01 45 15PM 17 correct?
- 01 45 17PM 18 **A. Correct.**
- 01 45 19PM 19 **Q.** And the Spiritual Warrior seminar was
- 01 45 21PM 20 teaching you to color outside the box; correct?
- 01 45 23PM 21 **A. Yes.**
- 01 45 25PM 22 **Q.** To make your own decisions; correct?
- 01 45 27PM 23 **A. I believe the lessons were to help us**
- 01 45 29PM 24 **gain strength so that we could clearly make our own**
- 01 45 31PM 25 **decisions. Yes.**

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- 01 45 48PM 1 **Q.** To accept responsibility for your
- 01 45 49PM 2 decisions?
- 01 45 50PM 3 **A. Yes.**
- 01 45 51PM 4 **Q.** And that was kind of the -- along with
- 01 45 53PM 5 the other things you've said, I've emphasized
- 01 45 54PM 6 certain points. That was kind the focus of the
- 01 46 00PM 7 seminar; correct?
- 01 46 01PM 8 **A. It was.**
- 01 46 02PM 9 **Q.** And you believe that you have the ability
- 01 46 04PM 10 to do that; correct?
- 01 46 06PM 11 **A. At times, yes.**
- 01 46 08PM 12 **Q.** You sometimes get belligerent and you'll
- 01 46 10PM 13 do whatever the "F" you want to do and make your
- 01 46 12PM 14 own decision; correct?
- 01 46 14PM 15 **A. Yes.**
- 01 46 16PM 16 **Q.** And you also have a belief that other
- 01 46 18PM 17 people may not be as capable of doing that as you?
- 01 46 20PM 18 **A. Yes.**
- 01 46 22PM 19 **Q.** Now, the Spiritual Warrior was a diverse
- 01 46 24PM 20 group of people; correct?
- 01 46 26PM 21 **A. Yes.**
- 01 46 28PM 22 **Q.** So I'm assuming that people possessed
- 01 46 30PM 23 varying abilities in which they were capable of
- 01 46 32PM 24 making their own choices. Correct?
- 01 46 34PM 25 **A. Yes.**

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- 01 46 48PM 1 **Q.** ...accepting responsibility for those
- 01 46 51PM 2 choices; correct?
- 01 46 52PM 3 **A. Correct.**
- 01 46 57PM 4 **Q.** And, in fact, ma'am, on the last day of
- 01 47 01PM 5 the seminar when you were in the sweat lodge, after
- 01 47 05PM 6 the third round you made the choice and the
- 01 47 10PM 7 decision to leave the sweat lodge; correct?
- 01 47 12PM 8 **A. I did.**
- 01 47 15PM 9 **Q.** When you made that choice, that was your
- 01 47 18PM 10 decision; correct?
- 01 47 19PM 11 **A. Correct.**
- 01 47 19PM 12 **Q.** No one prevented you from making that
- 01 47 22PM 13 decision, correct?
- 01 47 23PM 14 **A. Correct.**
- 01 47 24PM 15 **Q.** And no one tried to stop you as you were
- 01 47 27PM 16 leaving the sweat lodge; correct?
- 01 47 28PM 17 **A. Correct.**
- 01 47 29PM 18 **Q.** And you talked about honor. I think then
- 01 47 31PM 19 as people would leave, there would be a chant that
- 01 47 35PM 20 was something like "hi ya ya." Do you recall that?
- 01 47 38PM 21 **A. That was when the stones were brought in.**
- 01 47 42PM 22 **Q.** Okay. But doesn't that -- isn't that
- 01 47 44PM 23 Peruvian for something like, we respect your honor,
- 01 47 49PM 24 we consider your honor, something to that effect?
- 01 47 51PM 25 **A. Respecting the stones. Yes.**

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- 01 47 58PM 1 **Q.** You told us that approximately 60 people
- 01 48 08PM 2 were in this sweat lodge on October 8th, 2009;
- 01 48 11PM 3 correct?
- 01 48 11PM 4 **A. Correct.**
- 01 48 11PM 5 **Q.** And you told us the respective positions
- 01 48 15PM 6 that you were at when you were in the sweat lodge
- 01 48 18PM 7 at various times; right?
- 01 48 19PM 8 **A. Correct.**
- 01 48 20PM 9 **Q.** And each time that you moved from one
- 01 48 23PM 10 position to the other, that was your decision;
- 01 48 26PM 11 correct?
- 01 48 26PM 12 **A. Yes, it was.**
- 01 48 27PM 13 **Q.** And after sitting out a round, the third
- 01 48 36PM 14 round, which I assume equates to the fourth round
- 01 48 40PM 15 you're out, you made the decision to go back in;
- 01 48 41PM 16 correct?
- 01 48 41PM 17 **A. I did.**
- 01 48 42PM 18 **Q.** Was it only one round?
- 01 48 43PM 19 **A. I believe it was only one round.**
- 01 48 46PM 20 **Q.** Before you went back in there, you also
- 01 48 48PM 21 made the decision or the choice to drink about
- 01 48 52PM 22 three glasses of electrolytes; correct?
- 01 48 55PM 23 **A. Correct.**
- 01 48 56PM 24 **Q.** Because you knew that's what you needed
- 01 48 59PM 25 before you went back in there?

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01 49 00PM 1 **A. Correct.**

01 49 01PM 2 **Q.** You needed to be cooled down, to get some

01 49 05PM 3 more water and electrolytes in you, and then go

01 49 06PM 4 back in; correct?

01 49 08PM 5 **A. Yes.**

01 49 09PM 6 **Q.** That stuff -- water and electrolytes and

01 49 17PM 7 so forth -- was readily available to the

01 49 20PM 8 participants; correct?

01 49 21PM 9 **A. Correct.**

01 49 34PM 10 **Q.** Let me publish to the jury Exhibit 145.

01 49 39PM 11 May I approach the witness?

01 49 40PM 12 **THE COURT:** Yes.

01 49 53PM 13 **Q.** BY MR. KELLY: Ms. Phillips, if you look

01 49 55PM 14 at Exhibit 145, in fact, this fellow right here is

01 49 57PM 15 drinking water; correct?

01 49 59PM 16 **A. Yes, he is.**

01 50 00PM 17 **Q.** You have a belief or had a belief back

01 50 08PM 18 in 2009 that you should take about 5.7 liters of

01 50 13PM 19 water a day; correct?

01 50 15PM 20 **A. I was -- had the belief I needed to drink**

01 50 19PM 21 **lots of water. I have no idea how much.**

01 50 22PM 22 **Q.** Do you recall telling an investigator 5.7

01 50 26PM 23 liters a day was your goal or average?

01 50 31PM 24 **A. I don't recall a measurement.**

01 50 33PM 25 **Q.** Okay. Does that sound about right?

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01 50 34PM 1 **A. I'm really bad with measurements. How**

01 50 37PM 2 **many bottles would it be?**

01 50 39PM 3 **Q.** Probably just under six bottles if

01 50 41PM 4 they're a liter. Beyond that, I'm like you.

01 50 44PM 5 So let me ask you this more specific

01 50 46PM 6 question: When you came off the Vision Quest and

01 50 51PM 7 went back to your room, I think you told us that

01 50 55PM 8 you showered, you changed your clothes, you had

01 50 56PM 9 some snacks in the room, you ate something, and you

01 51 01PM 10 drank between the Vision Quest and the beginning of

01 51 04PM 11 the sweat lodge three liters of water that morning.

01 51 07PM 12 Correct?

01 51 07PM 13 **A. We were given purple drinking vessels.**

01 51 11PM 14 **And I drank three of those.**

01 51 13PM 15 **Q.** Okay. And so the jury understands, you

01 51 16PM 16 had three of the vessels of water, whatever their

01 51 21PM 17 volume, before you went into the sweat lodge. And

01 51 24PM 18 in addition to that you had three glasses. And you

01 51 28PM 19 term it electrolytes. But I'm assuming that's some

01 51 31PM 20 water. Correct?

01 51 31PM 21 **A. Correct.**

01 51 34PM 22 **Q.** When you came out after the third round?

01 51 34PM 23 **A. Correct.**

01 51 35PM 24 **Q.** And let me --

01 51 39PM 25 If I may I approach, Judge?

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01 51 46PM 1 **THE COURT:** Yes.

01 51 48PM 2 **Q.** BY MR. KELLY: I'll hand you what's been

01 51 54PM 3 marked as Exhibit 321 and ask you if you recognize

01 51 55PM 4 the items depicted in 321.

01 51 57PM 5 **A. I do.**

01 51 58PM 6 **Q.** Is that a picture of the electrolytes

01 52 00PM 7 back on October 8th, 2009?

01 52 02PM 8 **A. It is.**

01 52 03PM 9 **MR. KELLY:** Your Honor, I move to admit

01 52 08PM 10 Exhibit 321.

01 52 09PM 11 **MS. POLK:** Mr. Kelly, may I see the exhibit?

01 52 15PM 12 **MR. KELLY:** Yes.

01 52 27PM 13 **MS. POLK:** Your Honor, the state has no

01 52 28PM 14 objection to its admission.

01 52 30PM 15 **THE COURT:** 321 is admitted.

01 52 36PM 16 **MR. KELLY:** May I publish?

01 52 38PM 17 **THE COURT:** Yes, you may.

01 52 39PM 18 (Exhibit 321 admitted.)

01 52 39PM 19 **Q.** BY MR. KELLY: So the jury now can see,

01 52 41PM 20 these are the electrolytes that are within the tent

01 52 44PM 21 in close proximity to the sweat lodge. Correct?

01 52 47PM 22 **A. Correct.**

01 52 47PM 23 **Q.** And after the third round you came out

01 52 49PM 24 and got three glasses of the stuff in this

01 52 52PM 25 container; correct?

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01 52 52PM 1 **A. Yes.**

01 52 52PM 2 **Q.** Now, you didn't -- it wasn't your

01 53 00PM 3 responsibility to mix whatever is in that

01 53 01PM 4 container; correct?

01 53 02PM 5 **A. Correct.**

01 53 03PM 6 **Q.** So it says "electrolyte's" on it. But

01 53 08PM 7 you're not the person who actually mixed the water

01 53 08PM 8 and whatever substance --

01 53 10PM 9 **A. No, I'm not.**

01 53 11PM 10 **Q.** In fact, were you aware that it was Angel

01 53 17PM 11 Valley's responsibility to do that?

01 53 18PM 12 **A. I was not aware.**

01 53 21PM 13 **Q.** You understood that Angel Valley was the

01 53 37PM 14 entity that was going to provide the room and board

01 53 41PM 15 during the seminar?

01 53 43PM 16 **A. Correct.**

01 53 43PM 17 **Q.** Because I think you told Ms. Polk that

01 53 46PM 18 you had to write a separate check for that.

01 53 49PM 19 Correct?

01 53 49PM 20 **A. Correct.**

01 53 50PM 21 **Q.** So when you came out, you got three

01 53 52PM 22 glasses of water with electrolytes, you stayed out

01 53 56PM 23 about a round, and you went back in; correct?

01 53 59PM 24 **A. Correct.**

01 54 01PM 25 **Q.** Now I'm going to hand you --

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01 54 02PM 1 And I believe there's a stipulation for
 01 54 03PM 2 admission to Exhibit 322?
 01 54 08PM 3 MS. POLK: That's correct, Your Honor.
 01 54 09PM 4 THE COURT: 322 is admitted.
 01 54 10PM 5 MR. KELLY: And if we could publish it?
 01 54 14PM 6 THE COURT: Yes.
 01 54 15PM 7 (Exhibit 322 admitted.)
 01 54 15PM 8 Q. BY MR. KELLY: In addition to
 01 54 17PM 9 electrolytes, do you recognize that there were
 01 54 17PM 10 other fruits, such as oranges and watermelon,
 01 54 24PM 11 available for the participants?
 01 54 24PM 12 A. I do.
 01 54 25PM 13 Q. Did you have any of that stuff?
 01 54 30PM 14 A. I do not recall.
 01 54 49PM 15 MR. KELLY: Your Honor, we have a stipulation
 01 54 51PM 16 for 505.
 01 54 52PM 17 THE COURT: 505 is admitted.
 01 54 56PM 18 MR. KELLY: May we publish, Judge?
 01 54 58PM 19 THE COURT: Yes.
 01 55 00PM 20 (Exhibit 505 admitted.)
 01 55 00PM 21 Q. BY MR. KELLY: Ms. Phillips, this is just
 01 55 01PM 22 a different photograph showing the same thing,
 01 55 04PM 23 electrolytes in the proximity of the fruit and so
 01 55 06PM 24 forth; correct?
 01 55 06PM 25 A. Correct.
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01 55 06PM 1 Q. And we saw a -- Exhibit 144 was discussed
 01 55 31PM 2 during your direct testimony. And the electrolytes
 01 55 40PM 3 and water was under this tent just left of the
 01 55 43PM 4 sweat lodge; is that correct?
 01 55 45PM 5 A. Yes, it was.
 01 55 46PM 6 Q. So when you came out, made your decision
 01 55 49PM 7 that it was getting too hot, I'm going to exercise
 01 55 53PM 8 my free will to come out on the third round, you
 01 55 56PM 9 stayed outside, went over to this tent, drank those
 01 56 00PM 10 three glasses of water, and cooled off; correct?
 01 56 02PM 11 A. I believe somebody handed me the water.
 01 56 04PM 12 Q. Okay. And there were people out there to
 01 56 06PM 13 assist you called the "Dream Team members";
 01 56 10PM 14 correct?
 01 56 10PM 15 A. Yes.
 01 56 11PM 16 Q. And you're not a Dream Team member;
 01 56 13PM 17 correct?
 01 56 13PM 18 A. Correct.
 01 56 13PM 19 Q. All right. You never have been?
 01 56 15PM 20 A. Correct.
 01 56 15PM 21 Q. So it's fair to say, Ms. Phillips, that
 01 56 24PM 22 you don't know the relationship between James Ray
 01 56 24PM 23 and the Dream Team members; correct?
 01 56 26PM 24 A. Correct.
 01 56 33PM 25 Q. What I mean by that is you don't know --
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01 56 36PM 1 you don't have any personal knowledge as to the
 01 56 38PM 2 responsibilities of individual Dream Team members;
 01 56 43PM 3 correct?
 01 56 44PM 4 A. Correct.
 01 56 44PM 5 Q. Now, you had mentioned that you had a --
 01 56 46PM 6 got to look back through my notes. I think his
 01 56 50PM 7 name was Bill. He was your group leader; correct?
 01 56 58PM 8 A. Correct.
 01 56 58PM 9 Q. And you guys actually elected the group
 01 57 03PM 10 leader -- when I say "you guys," the participants
 01 57 06PM 11 elected the group leader?
 01 57 08PM 12 A. Yes.
 01 57 08PM 13 Q. Maybe that's the wrong term. The
 01 57 11PM 14 participants chose the group leader; correct?
 01 57 14PM 15 A. I believe that's correct. Yes.
 01 57 16PM 16 Q. It wasn't Mr. Ray or a Dream Team member
 01 57 19PM 17 telling you who the leader was going to be?
 01 57 21PM 18 A. No, it was not.
 01 57 22PM 19 Q. And was it Bill -- did I remember that
 01 57 25PM 20 right?
 01 57 25PM 21 A. Bill.
 01 57 26PM 22 Q. And is this Bill here?
 01 57 28PM 23 A. I believe it is. I'm not 100 percent
 01 57 34PM 24 certain.
 01 57 35PM 25 Q. Did you do that on the first day?
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01 57 37PM 1 A. That was on the first day -- or no. That
 01 57 42PM 2 was -- we did the teams before the Samurai Warrior
 01 57 48PM 3 Game before the imposed silence.
 01 57 50PM 4 Q. So it wasn't before the holotropic
 01 57 52PM 5 breathing? It was later?
 01 57 54PM 6 A. It was after the holotropic breathing.
 01 57 58PM 7 Q. And have you had a chance to study
 01 58 00PM 8 Exhibit 144 anymore? Can you find yourself in it
 01 58 09PM 9 or --
 01 58 07PM 10 May I approach, Judge?
 01 58 08PM 11 THE COURT: Yes, you may.
 01 58 12PM 12 Q. BY MR. KELLY: Sometimes, Ms. Phillips,
 01 58 14PM 13 it helps to look at the actual photo.
 01 58 37PM 14 A. I don't see myself.
 01 58 39PM 15 Q. Okay. That was just the question.
 01 58 40PM 16 A. Unless you can point me out.
 01 58 47PM 17 Q. I believe you told us that you were
 01 58 50PM 18 towards the front of this line is your
 01 58 52PM 19 recollection. Correct?
 01 58 53PM 20 A. It was very soon that I entered. Yes.
 01 58 55PM 21 Q. And after you entered, you -- we can put
 01 59 02PM 22 up if you'd like Exhibit 414. If you want to use
 01 59 15PM 23 your finger, go ahead.
 01 59 16PM 24 After you entered, you went in and you
 01 59 20PM 25 stopped at about the 3:00 o'clock position if the
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01 59 23PM 1 word "entrance" is at 6:00 o'clock.

01 59 25PM 2 **A. Correct.**

01 59 28PM 3 **Q. And who was next to you?**

01 59 30PM 4 **A. At the very beginning Sylvia was.**

01 59 35PM 5 **Q. At the very beginning, before you leave**

01 59 38PM 6 **on the third round, do you know where Kirby Brown**

01 59 39PM 7 **is?**

01 59 39PM 8 **A. I believe she was here.**

01 59 42PM 9 **Q. Okay. Let's -- I'm going to do this one**

01 59 44PM 10 **more time.**

01 59 52PM 11 **Please show your route and where you**

01 59 55PM 12 **stopped with your finger.**

02 00 01PM 13 **A. This is the beginning. This is not after**

02 00 03PM 14 **the third round.**

02 00 05PM 15 **Q. Okay. Yeah. At the beginning. And I**

02 00 08PM 16 **don't know if this worked or not. But I'd like to**

02 00 09PM 17 **now to point where Kirby Brown is.**

02 00 15PM 18 **Did you know where Liz Neuman was or do**

02 00 18PM 19 **you believe you knew?**

02 00 21PM 20 **Wait. Wait. Wait. Did you -- did you**

02 00 21PM 21 **know --**

02 00 21PM 22 **A. I believe that I knew where she was.**

02 00 25PM 23 **Yes.**

02 00 26PM 24 **Q. Let's try it. I thought we were going to**

02 00 32PM 25 **get different colors.**

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02 00 34PM 1 **And then, finally, James Shore?**

02 00 36PM 2 **A. I believe he was around here.**

02 00 38PM 3 **Q. When you entered, you went towards --**

02 00 42PM 4 **towards the back -- or you were in the outside ring**

02 00 45PM 5 **of the two rows of participants; correct?**

02 00 48PM 6 **A. Upon first arriving, yes.**

02 00 51PM 7 **Q. And take a look --**

02 00 55PM 8 **I think we have a stipulation, Judge, for**

02 01 04PM 9 **528?**

02 01 10PM 10 **MS. POLK: Yes, Your Honor, we do.**

02 01 12PM 11 **THE COURT: 528 is admitted.**

02 01 12PM 12 **(Exhibit 528 admitted.)**

02 01 12PM 13 **Q. BY MR. KELLY: Ms. Phillips, take a look**

02 01 12PM 14 **at 528.**

02 01 21PM 15 **If I may publish?**

02 01 23PM 16 **THE COURT: Yes.**

02 01 34PM 17 **Q. BY MR. KELLY: You recognize 528 as a**

02 01 39PM 18 **photograph of the inside of the sweat lodge?**

02 01 41PM 19 **A. Yes.**

02 01 43PM 20 **Q. And show the jury, then, how you picked**

02 01 44PM 21 **up the flap so you'd get some fresh air.**

02 01 49PM 22 **Well, I'm going to strike that question.**

02 01 50PM 23 **Okay?**

02 01 50PM 24 **When you're in for the first three**

02 01 55PM 25 **rounds, did you pick up the flap to get fresh air?**

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02 01 59PM 1 **A. Yes, I did.**

02 02 00PM 2 **Q. Okay. So if you could point on the**

02 02 02PM 3 **exhibit just -- and I realize this may not be the**

02 02 05PM 4 **exact location. But show us how you'd do that.**

02 02 09PM 5 **Okay. So describe, then, how you --**

02 02 11PM 6 **how -- to the jury -- you know -- how hard was it**

02 02 13PM 7 **to pick up the flap.**

02 02 15PM 8 **A. I slipped my fingers underneath and**

02 02 18PM 9 **lifted ever so gently.**

02 02 20PM 10 **Q. And then there's a rush of cool air?**

02 02 23PM 11 **A. I felt cool air. Yes.**

02 02 25PM 12 **Q. And you breathed that into your lungs and**

02 02 27PM 13 **you can feel it on your body?**

02 02 28PM 14 **A. I did not feel it on my body. I could**

02 02 31PM 15 **feel it on my face.**

02 02 32PM 16 **Q. Okay. And that cooled you down; right?**

02 02 34PM 17 **A. It did not cool me down. I was able to**

02 02 37PM 18 **breathe cool air and it was more comfortable than**

02 02 40PM 19 **breathing the hot air.**

02 02 41PM 20 **Q. Okay. Now, you know that heat rises;**

02 02 43PM 21 **correct?**

02 02 44PM 22 **A. Correct.**

02 02 44PM 23 **Q. So we can make the assumption that it's**

02 02 47PM 24 **hotter at the top of the sweat lodge than it is at**

02 02 51PM 25 **the floor?**

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02 02 51PM 1 **A. Correct.**

02 02 52PM 2 **Q. And you knew, just common experience,**

02 02 57PM 3 **that if you got down closer to the floor, it was**

02 02 58PM 4 **going to be cooler; right?**

02 02 59PM 5 **A. I had been told that. Yes.**

02 03 01PM 6 **Q. I know you'd been told that. But you**

02 03 04PM 7 **also knew that; correct?**

02 03 05PM 8 **A. Correct.**

02 03 05PM 9 **Q. And you also knew that if you could get**

02 03 08PM 10 **outside air in, it would be cooler; correct?**

02 03 10PM 11 **A. Correct.**

02 03 11PM 12 **Q. So again, exercising free choice, you**

02 03 15PM 13 **lifted the flap to get that breath of fresh air,**

02 03 19PM 14 **right?**

02 03 19PM 15 **A. Yes.**

02 03 20PM 16 **Q. And that's a form of -- or a type of**

02 03 23PM 17 **coloring outside the lines or the box; correct?**

02 03 26PM 18 **A. Exactly.**

02 03 27PM 19 **Q. It's a -- I don't know the exact quote.**

02 03 32PM 20 **But you told us you "F'n" do what you need to do?**

02 03 38PM 21 **Maybe other people don't, or something like that;**

02 03 38PM 22 **correct?**

02 03 41PM 23 **A. The officer had asked me what made me.**

02 03 43PM 24 **And I said that when it comes to push or fight**

02 03 49PM 25 **and -- I had mentioned that, yes, that attitude**

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- 02 03 52PM 1 comes.
- 02 03 52PM 2 Q. Sure. And that's even consistent with
- 02 03 57PM 3 the coloring outside the box and the accepting
- 02 04 01PM 4 responsibility for your actions and the freedom of
- 02 04 11PM 5 choice in solving your problems, all those types of
- 02 04 14PM 6 themes that were incorporated into the seminar;
- 02 04 14PM 7 correct?
- 02 04 14PM 8 A. Correct.
- 02 04 15PM 9 Q. When you first went in, I think I
- 02 04 19PM 10 interrupted you. Who was next to you? Sylvia?
- 02 04 22PM 11 A. Sylvia.
- 02 04 23PM 12 Q. When you lifted that flap up, do you know
- 02 04 25PM 13 whether or not she was able to get some of that
- 02 04 27PM 14 air?
- 02 04 27PM 15 A. She was. I made sure of it for her.
- 02 04 30PM 16 Q. Very good. What about on the other side
- 02 04 33PM 17 of you? Do you know who was next to you?
- 02 04 34PM 18 A. I don't recall.
- 02 04 42PM 19 Q. When you're laying on the floor on the
- 02 04 56PM 20 concrete -- we saw some photographs -- it was
- 02 05 01PM 21 uncomfortable; correct?
- 02 05 03PM 22 A. Yes.
- 02 05 03PM 23 Q. And you described the discomfort to the
- 02 05 06PM 24 jury; correct?
- 02 05 08PM 25 A. Yes.

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- 02 05 07PM 1 Q. You understood that that was a game;
- 02 05 15PM 2 correct?
- 02 05 16PM 3 A. Correct.
- 02 05 17PM 4 Q. And it had a title, "Samurai Game," but
- 02 05 21PM 5 it was an exercise to help the participants achieve
- 02 05 25PM 6 these goals of independent thinking, of freedom of
- 02 05 29PM 7 choice; correct?
- 02 05 29PM 8 A. Yes.
- 02 05 30PM 9 Q. Just so I'm clear, when you're laying on
- 02 05 34PM 10 the floor, you were at one time allowed to get up
- 02 05 37PM 11 to go to the bathroom; correct?
- 02 05 38PM 12 A. Yes.
- 02 05 39PM 13 Q. And here's a question I had: I think you
- 02 05 43PM 14 said it was Aaron?
- 02 05 44PM 15 A. Yes.
- 02 05 44PM 16 Q. Did you tell him, hey, I got to go to the
- 02 05 48PM 17 bathroom? Or was this just a time that everyone
- 02 05 51PM 18 could get up off the floor and go to the bathroom?
- 02 05 54PM 19 Do you remember?
- 02 05 54PM 20 A. He actually came to me, tapped me on the
- 02 05 57PM 21 shoulder, told me I may open my eyes and follow him
- 02 05 57PM 22 to use the restroom.
- 02 06 01PM 23 Q. Later on during that game, you told us
- 02 06 02PM 24 again that you got up and with your eyes closed,
- 02 06 12PM 25 you put your hands on each other's shoulders and

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- 02 06 15PM 1 you walked from the floor of the Crystal Palace to
- 02 06 19PM 2 the location in this game identified as the
- 02 06 22PM 3 graveyard; correct?
- 02 06 23PM 4 A. Correct.
- 02 06 24PM 5 Q. Now, you knew, just like the tent flap,
- 02 06 30PM 6 that if you'd had enough, given your personality,
- 02 06 35PM 7 you would have got up any time; correct?
- 02 06 37PM 8 A. If I had felt myself in danger, I would
- 02 06 43PM 9 have.
- 02 06 44PM 10 Q. Okay. So that's my point. The
- 02 06 48PM 11 discomfort -- you know -- the fact that you
- 02 06 51PM 12 unwittingly killed yourself by speaking in the
- 02 06 55PM 13 washroom, you knew you could get up any time;
- 02 06 58PM 14 correct?
- 02 06 59PM 15 A. I didn't want to let down the team
- 02 07 03PM 16 members.
- 02 07 03PM 17 Q. I understand that. My question is so
- 02 07 07PM 18 much more simple than that. You knew that you
- 02 07 10PM 19 could get up at any time; correct?
- 02 07 11PM 20 A. Yes.
- 02 07 14PM 21 Q. And you knew that you had the strength to
- 02 07 18PM 22 get up, if needed, to stand up to the peer pressure
- 02 07 24PM 23 there to keep you down?
- 02 07 25PM 24 A. Yes.
- 02 07 25PM 25 Q. Because that's the type of personality

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- 02 07 27PM 1 you have; correct?
- 02 07 28PM 2 A. Correct.
- 02 07 28PM 3 Q. And similar to the lifting the flap, you
- 02 07 32PM 4 told us that you believed there was no dishonor in
- 02 07 37PM 5 that; correct?
- 02 07 38PM 6 A. Correct.
- 02 07 38PM 7 Q. So these are decisions that you're making
- 02 07 41PM 8 in your mind; correct?
- 02 07 42PM 9 A. Yes.
- 02 07 43PM 10 Q. And James Ray or anyone else there or
- 02 07 48PM 11 Aaron, your friend Theresa, when it's time for you
- 02 07 53PM 12 to make your mind up, you do it?
- 02 07 55PM 13 A. I did.
- 02 07 58PM 14 Q. And in the -- these Halloween costumes --
- 02 08 09PM 15 you know -- when Mr. Ray said, I am God, you knew
- 02 08 13PM 16 that Mr. Ray was not God; correct?
- 02 08 15PM 17 A. Correct.
- 02 08 15PM 18 Q. And you knew that this was a game;
- 02 08 18PM 19 correct?
- 02 08 18PM 20 A. Correct.
- 02 08 19PM 21 Q. And you knew that people, in order to get
- 02 08 21PM 22 the maximum benefit out of the game, had to play
- 02 08 25PM 23 their part; correct?
- 02 08 26PM 24 A. Correct.
- 02 08 26PM 25 Q. And included in that part were titles;

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02 08 28PM 1 correct?

02 08 28PM 2 **A. Correct.**

02 08 30PM 3 **Q.** And Halloween costumes; correct?

02 08 33PM 4 **A. Yes.**

02 08 37PM 5 **Q.** And so what did Mr. Ray have on? Do you

02 08 37PM 6 recall?

02 08 37PM 7 **A. A white robe.**

02 08 39PM 8 **Q.** And then there were, I think, Angels of

02 08 46PM 9 Death. Correct?

02 08 46PM 10 **A. Yes.**

02 08 47PM 11 **Q.** What did they wear?

02 08 48PM 12 **A. Black.**

02 08 49PM 13 **Q.** And the other participants -- what's

02 08 52PM 14 another title of a participant?

02 08 54PM 15 **A. I don't recall the title. I know one had**

02 08 56PM 16 **a totem. I think there was a priest.**

02 09 01PM 17 **Q.** A priest. And in order to talk to --

02 09 04PM 18 well, you didn't get to play the game?

02 09 06PM 19 **A. No, I didn't.**

02 09 07PM 20 **Q.** You died right away; right?

02 09 10PM 21 And you knew that that word "God" was

02 09 16PM 22 being used in the context of a game; correct?

02 09 19PM 23 **A. Correct.**

02 09 20PM 24 **Q.** Did you just by chance know that this

02 09 24PM 25 game is played in other corporations such as

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02 09 27PM 1 Disney, Verizon Communications? Did you know that?

02 09 32PM 2 **A. After the fact I found that out. Yes.**

02 09 34PM 3 **Q.** Did you know that it's used in military

02 09 37PM 4 institutions like the U.S. Army?

02 09 39PM 5 **A. No, I did not.**

02 09 41PM 6 **Q.** Let's go back to the game.

02 09 44PM 7 So you knew that James Ray was not God

02 09 47PM 8 and you also knew that you were not dead; correct?

02 09 49PM 9 **A. Correct.**

02 09 52PM 10 **Q.** That this was a game because in real life

02 09 56PM 11 if you're dead, you can't get up to go to the

02 09 57PM 12 bathroom; correct?

02 09 57PM 13 **A. Correct.**

02 09 58PM 14 **Q.** And you can't get up to go to the

02 10 00PM 15 graveyard yourself. They have to take you in a

02 10 05PM 16 hearse, I guess; correct?

02 10 05PM 17 **A. Correct.**

02 10 05PM 18 **Q.** So all of this is an exercise to help you

02 10 12PM 19 realize your personal goal as it relates to one of

02 10 17PM 20 the four pillars, which is, essentially, taking

02 10 19PM 21 control of your life; correct?

02 10 26PM 22 **A. At the time, I had no idea what the game**

02 10 26PM 23 **would bring.**

02 10 27PM 24 **Q.** Okay. But you wouldn't disagree with

02 10 28PM 25 what I said?

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02 10 30PM 1 **A. Correct.**

02 10 30PM 2 **Q.** Now, after that game you go out on the

02 10 33PM 3 Vision Quest. And I take it that the environment

02 10 45PM 4 around Sedona, Arizona, is something that you're

02 10 48PM 5 not that accustomed to. Correct?

02 10 50PM 6 **A. Correct.**

02 10 50PM 7 **Q.** And I'm trying to think of a different

02 10 52PM 8 name, but I am from Yavapai County so I'm not --

02 10 56PM 9 please don't read anything into this. But you're

02 10 58PM 10 more like a city girl; correct?

02 11 00PM 11 **A. Yes, I am.**

02 11 01PM 12 **Q.** So this was -- this is a pretty big deal.

02 11 07PM 13 I mean, you're going to be out in a remote

02 11 10PM 14 location?

02 11 11PM 15 **A. Yes.**

02 11 12PM 16 **Q.** With very few personal items alone --

02 11 12PM 17 **A. Yes.**

02 11 16PM 18 **Q.** -- at nighttime for two nights; correct?

02 11 18PM 19 **A. Yes.**

02 11 19PM 20 **Q.** And, again, the reason you did that was

02 11 25PM 21 to help yourself become a better person; correct?

02 11 27PM 22 **A. Yes.**

02 11 28PM 23 **Q.** In other words, you know, if I can stay

02 11 32PM 24 out there by myself for two nights without getting

02 11 35PM 25 up and walking out of that circle, then it's going

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02 11 38PM 1 to strengthen and help me become a better person;

02 11 42PM 2 correct?

02 11 42PM 3 **A. Yes.**

02 11 42PM 4 **Q.** And same question. Now, you could have

02 11 46PM 5 gotten up out of that circle; correct?

02 11 48PM 6 **A. Correct.**

02 11 48PM 7 **Q.** And you could -- you knew where the

02 11 51PM 8 parking lot was by the noise; correct?

02 11 53PM 9 **A. Correct.**

02 11 53PM 10 **Q.** So you could have just simply, night or

02 11 56PM 11 day, walked out and went over to the parking lot

02 12 01PM 12 and say, hey, I'm done?

02 12 02PM 13 **A. Correct.**

02 12 03PM 14 **Q.** And you know, in fact, your roommate --

02 12 07PM 15 one of your initial roommates did exactly that?

02 12 10PM 16 They left the game?

02 12 11PM 17 **A. Yeah. She left.**

02 12 11PM 18 **Q.** Who was that?

02 12 12PM 19 **A. Sidney.**

02 12 13PM 20 **Q.** And Sidney left pretty early on?

02 12 15PM 21 **A. She left at the Vision Quest.**

02 12 18PM 22 **Q.** So she went through the Samurai Game,

02 12 21PM 23 said, hey. I'm exercising my free choice. I'm out

02 12 25PM 24 of here?

02 12 25PM 25 **A. Correct.**

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02 12 28PM 1 Q. And anyone could have done that at any
02 12 28PM 2 time; correct?
02 12 28PM 3 A. Yes.
02 12 28PM 4 Q. Now, during the Vision Quest -- I just
02 12 28PM 5 want to -- if I can find it, perhaps we can publish
02 12 51PM 6 Exhibit 201. My challenge is getting over
02 13 41PM 7 audiovisual things in the courtroom.
02 13 44PM 8 We're going to blow up a portion of this
02 13 48PM 9 release. And this is the release that you told the
02 13 48PM 10 jury you got in a Spiritual Warrior package -- it
02 13 53PM 11 was Exhibit 199 -- some months prior to --
02 13 53PM 12 A. Yes.
02 13 57PM 13 Q. -- the Sedona event. And it was attached
02 14 00PM 14 as an exhibit to the guideline -- I'm sorry. To
02 14 04PM 15 the participant guide. Correct?
02 14 06PM 16 A. Yes.
02 14 08PM 17 Q. So now -- and you read it. I mean, you
02 14 15PM 18 read it on the afternoon that you arrived in
02 14 18PM 19 Sedona, Arizona; correct?
02 14 18PM 20 A. Correct.
02 14 20PM 21 Q. And it said that Vision Quest is a
02 14 24PM 22 multiday, solitary, personal and spiritual quest in
02 14 28PM 23 the wilderness without food or water; correct?
02 14 32PM 24 A. Yes.
02 14 33PM 25 Q. And so you knew that much about it just
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02 14 35PM 1 based on the release?
02 14 37PM 2 A. Yes.
02 14 37PM 3 Q. And I think you told us you also had some
02 14 40PM 4 knowledge based on conversations with others on a
02 14 43PM 5 separate occasion. Correct?
02 14 44PM 6 A. Yes.
02 14 45PM 7 Q. So it was more than one day; correct?
02 14 54PM 8 A. Correct.
02 14 55PM 9 Q. You were alone; correct?
02 14 58PM 10 A. Correct.
02 14 57PM 11 Q. It was very personal; correct?
02 15 00PM 12 A. Yes.
02 15 01PM 13 Q. And I suppose whether it was a spiritual
02 15 08PM 14 quest would depend on the individual?
02 15 08PM 15 A. Correct.
02 15 09PM 16 Q. Whether it's in the wilderness would
02 15 12PM 17 depend on the individual as well. Some of us may
02 15 15PM 18 not think that's wilderness. But for you from
02 15 18PM 19 Toronto that's close enough; correct?
02 15 21PM 20 A. Correct.
02 15 22PM 21 Q. And you didn't have any food or water;
02 15 24PM 22 correct?
02 15 24PM 23 A. Correct.
02 15 25PM 24 Q. Now, you had food and water throughout
02 15 28PM 25 the course of this seminar other than the times
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02 15 33PM 1 that you've identified, which was during the
02 15 36PM 2 Samurai Game, the Vision Quest, and during the two
02 15 40PM 3 hours of sweat lodge; correct?
02 15 42PM 4 A. Yes.
02 15 43PM 5 Q. And I noticed on the face of Exhibit 199
02 15 48PM 6 that you -- when you got off the airplane in
02 15 54PM 7 Phoenix, you stayed at the Ritz; correct?
02 15 56PM 8 A. I stayed at the Ritz Carlton before going
02 16 00PM 9 home.
02 16 02PM 10 Q. Okay. But here's my point: Just so the
02 16 04PM 11 jury understands, you paid for that. That wasn't
02 16 08PM 12 part of this package; correct?
02 16 08PM 13 A. Correct.
02 16 09PM 14 Q. And then I think you told us you drove to
02 16 12PM 15 Sedona, you met your girlfriend, you stayed at a
02 16 16PM 16 Super 8, and you went out to dinner. Correct?
02 16 18PM 17 A. Correct.
02 16 19PM 18 Q. You had lobster and wine for dinner;
02 16 22PM 19 correct?
02 16 23PM 20 A. Yes.
02 16 23PM 21 Q. Then the next day you show up in Sedona
02 16 26PM 22 at Angel Valley; correct?
02 16 28PM 23 A. Correct.
02 16 28PM 24 Q. You had contracted with them for food and
02 16 30PM 25 lodging; correct?
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02 16 31PM 1 A. Correct.
02 16 32PM 2 Q. And they provided food and lodging;
02 16 34PM 3 correct?
02 16 34PM 4 A. Correct.
02 16 35PM 5 Q. And water; correct?
02 16 37PM 6 A. Correct.
02 16 38PM 7 Q. In fact, everyone there was talking about
02 16 41PM 8 hydrating; correct?
02 16 42PM 9 A. Correct.
02 16 43PM 10 Q. And if you look at the next line -- or
02 16 50PM 11 excuse me -- about the sweat lodge, the release
02 17 05PM 12 that you signed indicated that you'd also
02 17 08PM 13 participate -- be participating in a sweat lodge
02 17 11PM 14 ceremony, a ceremonial sauna involving tight and
02 17 15PM 15 enclosed spaces and intense temperatures; correct?
02 17 19PM 16 A. Correct.
02 17 20PM 17 Q. And, again, this release was provided to
02 17 23PM 18 you on the very first day, Thursday, several days
02 17 28PM 19 before the sweat lodge; correct?
02 17 29PM 20 A. Yes.
02 17 30PM 21 Q. And it also told you about the holotropic
02 17 33PM 22 breath work; correct?
02 17 35PM 23 A. Correct.
02 17 35PM 24 Q. And it indicated that that is a
02 17 45PM 25 psychotherapeutic approach believed to allow access
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02 17 49PM 1 to nonordinary states of consciousness; correct?

02 17 52PM 2 **A. Correct.**

02 17 53PM 3 **Q.** And you seem to have some -- are quite

02 18 01PM 4 familiar with altered states of consciousness. I

02 18 06PM 5 heard you refer to it several times and attempt to

02 18 10PM 6 define it. You told us at times throughout this

02 18 12PM 7 seminar you reached an altered state of

02 18 14PM 8 consciousness; correct?

02 18 14PM 9 **A. Correct.**

02 18 14PM 10 **Q.** I suppose you have on other occasions

02 18 16PM 11 before and after?

02 18 17PM 12 **A. Yes.**

02 18 18PM 13 **Q.** Now, go ahead and feel free to correct me

02 18 24PM 14 if I'm wrong. But if I get angry with Ms. Polk, am

02 18 28PM 15 I entering at least some form of an altered state

02 18 33PM 16 of consciousness?

02 18 34PM 17 **A. Yes.**

02 18 35PM 18 **Q.** If I'm in love with my wife or my

02 18 38PM 19 daughter, am I in an altered state of

02 18 41PM 20 consciousness?

02 18 42PM 21 **A. I believe so.**

02 18 44PM 22 **Q.** If I'm praying and meditating about

02 18 55PM 23 something that's very, very personal to me and I

02 18 57PM 24 gain insight as to perhaps what the base of the --

02 19 01PM 25 the root of the problem is, is that an altered

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02 19 05PM 1 state of consciousness?

02 19 06PM 2 **A. I believe so. Yes.**

02 19 15PM 3 **Q.** And this seminar -- that's what this

02 19 21PM 4 seminar was about. It was about life, about

02 19 25PM 5 improving yourself; correct?

02 19 27PM 6 **A. Correct.**

02 19 29PM 7 **Q.** When the word "death" was used throughout

02 19 31PM 8 the time period of the seminar, it was simply as a

02 19 38PM 9 metaphor, I think you told us; correct?

02 19 37PM 10 **A. Correct.**

02 19 37PM 11 **Q.** You guys were trying to figure out how to

02 19 41PM 12 live; correct?

02 19 42PM 13 **A. I think living fully.**

02 19 45PM 14 **Q.** Yes. And you did that through various

02 19 50PM 15 exercises, great deal of reflection, meditation,

02 19 55PM 16 writing in your journal, et cetera; correct?

02 19 57PM 17 **A. Correct.**

02 20 04PM 18 **Q.** You knew when you signed this release,

02 20 08PM 19 not only that there was going to be some of these

02 20 11PM 20 exercises, like the Vision Quest and the sweat

02 20 13PM 21 lodge, but it says I'm fully aware that I may

02 21 00PM 22 suffer physical -- the release said that, told you

02 21 09PM 23 about there being inherent risks in these

02 21 12PM 24 activities; correct?

02 21 13PM 25 **A. Correct.**

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02 21 13PM 1 **Q.** And when someone is trying to improve

02 21 15PM 2 themselves and reach altered states of

02 21 17PM 3 consciousness, sometimes risks are involved;

02 21 20PM 4 correct?

02 21 21PM 5 **A. Correct.**

02 21 21PM 6 **Q.** I've heard about people climbing

02 21 23PM 7 mountains, like Mount McKinley, and some people

02 21 30PM 8 assume those risks to improve the quality of their

02 21 33PM 9 life; correct?

02 21 34PM 10 **A. Yes.**

02 21 35PM 11 **Q.** But in doing that they have to assume the

02 21 37PM 12 risk involved with that inherently dangerous

02 21 41PM 13 activity; correct?

02 21 42PM 14 **A. Yes.**

02 21 44PM 15 **Q.** And this release said that you understood

02 21 48PM 16 if you signed it -- when I say "you," I'm talking

02 21 53PM 17 about just anyone, not you particularly. It says

02 21 55PM 18 that I understand that there are inherent risks in

02 22 00PM 19 the activities. People may have been seriously

02 22 04PM 20 injured by participating in the activities. And if

02 22 06PM 21 I voluntarily choose to participate in the

02 22 08PM 22 activities, there's a risk I may receive injuries

02 22 13PM 23 requiring medical attention; correct?

02 22 15PM 24 **A. Yes.**

02 22 15PM 25 **Q.** Now, that's not to say that anyone was

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02 22 18PM 1 intending on hurting you; correct?

02 22 20PM 2 **A. Correct.**

02 22 21PM 3 **Q.** That's not to say that anybody thought

02 22 23PM 4 that they were going to go there and get hurt;

02 22 25PM 5 correct?

02 22 26PM 6 **A. Correct.**

02 22 28PM 7 **Q.** What it's saying is, hey. I'm an adult.

02 22 30PM 8 I make my own decisions. I'm going to a seminar

02 22 34PM 9 where they're going to help me get control of life

02 22 37PM 10 and improve my life and there's some risk involved

02 22 40PM 11 and I'm willing to accept it; correct?

02 22 42PM 12 **A. Correct.**

02 22 51PM 13 **Q.** It says below that that I have -- I

02 22 57PM 14 affirm that I have not been nor will I be coerced

02 23 00PM 15 or persuaded in any way to do so and assume full

02 23 03PM 16 responsibility.

02 23 04PM 17 In other words, you know no one -- and we

02 23 07PM 18 went through this on the sweat lodge and your

02 23 10PM 19 freedom of leaving and coming. No one coerced you

02 23 14PM 20 to do that; correct?

02 23 15PM 21 **A. Correct.**

02 23 22PM 22 **Q.** You mentioned -- well, no. I'm going to

02 23 23PM 23 rephrase my question.

02 23 26PM 24 At times you felt there was a lot of peer

02 23 29PM 25 pressure to engage in and complete these

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02 23 32PM 1 activities; correct?

02 23 33PM 2 A. Yes.

02 23 35PM 3 Q. That was during the Samurai Game;

02 23 42PM 4 correct?

02 23 47PM 5 A. I was not playing the game.

02 23 50PM 6 Q. Okay. I'll strike that question. I

02 23 51PM 7 believe you've already answered it.

02 23 54PM 8 But what I'm getting at is this peer

02 23 57PM 9 pressure. All these folks come to the seminar for

02 23 59PM 10 the same purpose. And they're all trying to enjoy

02 24 08PM 11 or receive the ultimate benefit from that

02 24 08PM 12 experience. So as a result of that, there's some

02 24 08PM 13 peer pressure to do stuff; correct?

02 24 11PM 14 A. Correct.

02 24 28PM 15 Q. You told us a moment ago that if you

02 24 30PM 16 thought that this was an unreasonably dangerous

02 24 35PM 17 activity of any type, you wouldn't do it; correct?

02 24 38PM 18 A. If I had thought I would be severely

02 24 41PM 19 injured, no, I would not have.

02 24 44PM 20 Q. So you told Ms. Polk in your direct

02 24 46PM 21 examination that when you came back from the Vision

02 24 51PM 22 Quest, drank your three bottles of water, you had

02 24 53PM 23 something to eat, and that there was a presweat

02 24 57PM 24 lodge presentation put on by Mr. Ray; correct?

02 25 01PM 25 A. Correct.

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02 25 01PM 1 Q. And you told us that as you were walking

02 25 04PM 2 into the sweat lodge, if you would have thought

02 25 09PM 3 that it was a dangerous activity, you wouldn't have

02 25 11PM 4 gone in; correct?

02 25 11PM 5 A. I was defining dangerous as life

02 25 18PM 6 threatening.

02 25 19PM 7 Q. Okay. So you wouldn't have gone in;

02 25 21PM 8 correct?

02 25 21PM 9 A. If I had thought my life would be in

02 25 24PM 10 jeopardy --

02 25 24PM 11 Q. Right.

02 25 26PM 12 A. -- no.

02 25 28PM 13 Q. I mean, given that definition that you

02 25 27PM 14 have -- and thank you for clarifying it -- you

02 25 30PM 15 would not have gone in; correct?

02 25 31PM 16 A. Correct.

02 25 31PM 17 Q. So using you in the same definition, when

02 25 34PM 18 you go back in on the fourth round, you thought the

02 25 37PM 19 same thing; correct?

02 25 38PM 20 A. Correct.

02 25 55PM 21 Q. When you entered the sweat lodge what --

02 25 55PM 22 you told us that you made tobacco pouches; correct?

02 25 58PM 23 A. Yes.

02 26 04PM 24 Q. And you made those tobacco pouches out of

02 26 08PM 25 chewing tobacco?

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02 26 09PM 1 A. Correct.

02 26 12PM 2 Q. What do they symbolize?

02 26 18PM 3 A. It was an offering.

02 26 19PM 4 Q. And I don't -- you don't have to tell us

02 26 21PM 5 your personal. But explain that to me more --

02 26 24PM 6 offering.

02 26 25PM 7 A. We were directed to make so many pouches

02 26 28PM 8 as an offering. And so I simply followed the

02 26 32PM 9 directions and brought it in. But it did not place

02 26 35PM 10 any meaning on it myself.

02 26 38PM 11 Q. You told us you ate breakfast that

02 26 49PM 12 morning; correct?

02 26 46PM 13 A. Yes.

02 26 47PM 14 Q. Do you recall what you ate for breakfast?

02 26 49PM 15 A. I believe oatmeal.

02 26 50PM 16 Q. Did you drink juice, coffee, water,

02 26 53PM 17 anything like that with breakfast?

02 26 56PM 18 A. I don't recall.

02 26 58PM 19 Q. Was that stuff available?

02 26 57PM 20 A. It was.

02 26 58PM 21 Q. Was lunch available?

02 27 01PM 22 A. I'm not 100 percent certain. The way

02 27 06PM 23 things were running, I would say yes.

02 27 25PM 24 Q. Ms. Phillips, I'm going to ask you to

02 27 53PM 25 take a look on the screen at Exhibit 202.

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02 27 58PM 1 And I'd like to have the -- paragraph 1

02 28 02PM 2 blown up.

02 28 10PM 3 You understand what a waiver of liability

02 28 15PM 4 and acceptance of responsibility and a release is;

02 28 19PM 5 correct?

02 28 19PM 6 A. Correct.

02 28 20PM 7 Q. And you understood that when you arrived,

02 28 24PM 8 you signed this document, this release, as it

02 28 28PM 9 relates to any responsibility on behalf of Angel

02 28 31PM 10 Valley; correct?

02 28 31PM 11 A. Correct.

02 28 32PM 12 Q. And that responsibility, then, would

02 28 34PM 13 cover things such as the lodging; correct?

02 28 38PM 14 A. Yes.

02 28 38PM 15 Q. And so if some type of disinfectant or

02 28 47PM 16 insecticide, something like that, was used in

02 28 51PM 17 maintaining and preserving this lodging, that would

02 28 54PM 18 be Angel Valley's -- or this release was to cover

02 29 00PM 19 that aspect of the seminar; correct?

02 29 01PM 20 A. I believe so.

02 29 02PM 21 Q. And it -- they also provided the food and

02 29 05PM 22 the water that we discussed; correct?

02 29 07PM 23 A. Yes.

02 29 07PM 24 Q. And so that release would follow that as

02 29 09PM 25 well; correct?

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02 29 10PM 1 **A. Yes.**

02 29 11PM 2 **Q.** And it says in paragraph 2, I agree that

02 29 20PM 3 Angel Valley shall not be responsible for any

02 29 21PM 4 bodily or physical, mental injury suffered by me,

02 29 22PM 5 et cetera; correct?

02 29 25PM 6 **A. Correct.**

02 29 25PM 7 **Q.** And you knew what you were signing when

02 29 28PM 8 you signed this; correct?

02 29 29PM 9 **A. Yes.**

02 29 29PM 10 **Q.** Now, I want to go back to the day that

02 29 35PM 11 you go into the sweat lodge again. The

02 29 38PM 12 breakfast -- you were in that lodge -- no. You

02 29 41PM 13 just came back from your Vision Quest; correct?

02 29 43PM 14 **A. Yes.**

02 29 43PM 15 **Q.** Did you know that Angel Valley selected

02 29 46PM 16 those spots where you were at?

02 29 48PM 17 **A. I believe it was mentioned.**

02 29 51PM 18 **Q.** And then when you were in your ring, your

02 29 55PM 19 medicine wheel, you told us when you left you

02 29 58PM 20 actually put it back together; correct?

02 30 00PM 21 **A. I tried to put those stones and twigs**

02 30 03PM 22 **where I had found them.**

02 30 04PM 23 **Q.** Thank you. And that's because you

02 30 08PM 24 respect the environment?

02 30 10PM 25 **A. We were told to do so.**

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02 30 12PM 1 **Q.** Okay. Just so I'm clear, I think you

02 30 20PM 2 told us that you had a backpack, a sleeping bag, a

02 30 25PM 3 coat, some feminine napkins, a bag, toilet paper,

02 30 32PM 4 or something like that -- wipes; correct?

02 30 33PM 5 **A. Correct.**

02 30 34PM 6 **Q.** And the idea of this game was to stay in

02 30 37PM 7 that circle; correct?

02 30 38PM 8 **A. Yes.**

02 30 39PM 9 **Q.** But you didn't always stay in the circle?

02 30 41PM 10 **A. I actually stayed in the circle. My two**

02 30 46PM 11 **fingers went outside of the circle when I lost my**

02 30 50PM 12 **balance.**

02 30 52PM 13 **Q.** And the purpose of the plastic bag was

02 30 56PM 14 for any bodily substance, to bring them out with

02 31 02PM 15 you, keep the environment clean; correct?

02 31 07PM 16 **A. Correct.**

02 31 08PM 17 **Q.** Like hiking the Grand Canyon; correct?

02 31 11PM 18 **A. Correct.**

02 31 19PM 19 **Q.** Going back to the presweat lodge

02 31 22PM 20 presentation, you were present for that; correct?

02 31 24PM 21 **A. Yes.**

02 31 28PM 22 **Q.** And you recall Mr. Ray providing specific

02 31 32PM 23 warnings about how hot it was going to be; correct?

02 31 32PM 24 **A. Yes.**

02 31 32PM 25 **Q.** In fact, he told you that was going to be

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02 31 34PM 1 hot.

02 31 34PM 2 **A. Yes.**

02 31 35PM 3 **Q.** Intensely hot; correct?

02 31 38PM 4 **A. Yes.**

02 31 55PM 5 **Q.** He said, symbolically, what you're going

02 31 59PM 6 to do is die; correct?

02 32 03PM 7 **A. Yes.**

02 32 03PM 8 **Q.** It's such a great metaphor, death,

02 32 07PM 9 because then it helps you overcome these problems

02 32 11PM 10 or reach these commitments that you've identified;

02 32 14PM 11 correct?

02 32 14PM 12 **A. Yes.**

02 32 14PM 13 **Q.** Again, death was being used as a

02 32 20PM 14 metaphor; correct?

02 32 21PM 15 **A. Correct.**

02 32 24PM 16 **Q.** And he even says that -- that there's all

02 32 32PM 17 kinds of physical metaphors and there's probably

02 32 34PM 18 nothing greater than the lodge, my lodge; right?

02 32 38PM 19 **A. Correct.**

02 32 41PM 20 **Q.** And, as you said, you most likely will

02 32 43PM 21 feel like your skin is going to fall off your body.

02 32 47PM 22 It's hot, hellacious hot. Do you recall him saying

02 32 51PM 23 that?

02 32 51PM 24 **A. Yes.**

02 32 52PM 25 **Q.** And that's before you went in; correct?

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02 32 54PM 1 **A. Correct.**

02 32 54PM 2 **Q.** And everyone who went in, to your

02 32 56PM 3 knowledge, attended that presentation before the

02 33 00PM 4 lodge?

02 33 00PM 5 **A. Yes.**

02 33 02PM 6 **Q.** And in addition to that, Ms. Phillips, he

02 33 05PM 7 also told you how to get out of the lodge; correct?

02 33 07PM 8 **A. Yes.**

02 33 08PM 9 **Q.** He said -- says -- after kind of a long

02 33 25PM 10 encouragement speech says, now, that being said, if

02 33 32PM 11 you just get to a point where you just -- you just

02 33 35PM 12 got to leave, you feel like you cannot, and a

02 33 41PM 13 couple things, is that please remember that this is

02 33 43PM 14 extremely hot in the center and many of you are

02 33 47PM 15 going to be close to that.

02 33 48PM 16 Now, it's a sacred temple. And you move

02 33 52PM 17 only what way? And the audience response was

02 33 56PM 18 clockwise; correct?

02 33 58PM 19 **A. Correct.**

02 34 01PM 20 **Q.** And he says, clockwise. So if you have

02 34 04PM 21 to leave and you need to, you're right here, you

02 34 07PM 22 can't duck out of this way. You have to go all the

02 34 10PM 23 way around and go out of the lodge. Sometimes I'll

02 34 14PM 24 leave it open a little while just to let some fresh

02 34 18PM 25 air in. And so you cannot leave during a round.

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02 34 22PM 1 If you have -- if you feel like you just cannot
02 34 24PM 2 transcend and overcome this, that when the gates
02 34 26PM 3 are open, if you have to leave, you leave and you
02 34 28PM 4 leave in a very controlled manner.

02 34 30PM 5 **A. Yes.**

02 34 31PM 6 **Q.** And now I'm summarizing. He says, be
02 34 34PM 7 careful because it's dark and there are legs and
02 34 36PM 8 arms in there, other people, so carefully come out
02 34 40PM 9 of the lodge; correct?

02 34 40PM 10 **A. Correct.**

02 34 41PM 11 **Q.** Now, when you left in the third round, of
02 34 43PM 12 course, you knew you could do that; correct?

02 34 45PM 13 **A. Yes.**

02 34 46PM 14 **Q.** You knew the manner in which you were
02 34 48PM 15 supposed to go out; correct?

02 34 49PM 16 **A. Yes.**

02 34 49PM 17 **Q.** And that's what you did?

02 34 50PM 18 **A. Yes.**

02 34 57PM 19 **Q.** Taking a look at --
02 35 32PM 20 May I approach, Judge?

02 35 33PM 21 **THE COURT:** Yes.

02 35 37PM 22 **Q.** BY MR. KELLY: Taking a look at
02 35 39PM 23 Exhibit 144, the lodge is low to the ground;
02 35 48PM 24 correct?

02 35 48PM 25 **A. Yes.**

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02 35 48PM 1 **Q.** And, in fact, Exhibit 144 shows its
02 35 52PM 2 height in comparison to the folks around it. But
02 35 56PM 3 it was necessary to crawl into it is my point.
02 35 59PM 4 Correct?

02 36 00PM 5 **A. You could walk bent over or crawl.**

02 36 03PM 6 **Q.** And people would walk like a -- duck walk
02 36 07PM 7 around it or crawl or bend way over; correct?

02 36 10PM 8 **A. Correct.**

02 36 11PM 9 **Q.** How did you get -- how did you go in?

02 36 13PM 10 **A. I crawled.**

02 36 17PM 11 **Q.** And once you got in there, you hung your
02 36 24PM 12 tobacco pouches up; correct?

02 36 29PM 13 **A. We did.**

02 36 30PM 14 **Q.** And I skipped a step. I probably lost --
02 36 34PM 15 here it is. Exhibit 145.

02 36 42PM 16 Before you go into the lodge, you circle
02 36 44PM 17 around this campfire?

02 36 46PM 18 **A. Yes.**

02 36 47PM 19 **Q.** And you throw your journals in; correct?

02 36 49PM 20 **A. Parts of our journals.**

02 36 51PM 21 **Q.** Parts you want -- you make the decision
02 36 54PM 22 what to throw in; correct?

02 36 54PM 23 **A. We were told to throw in the**
02 36 58PM 24 **recapitulations stuff. I wanted to keep other**
02 37 02PM 25 **memories, and I ripped out that part.**

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02 37 04PM 1 **Q.** Okay. So you made the decision as to
02 37 06PM 2 which portion of your journal to throw in or keep;
02 37 09PM 3 correct?

02 37 09PM 4 **A. Exactly.**

02 37 10PM 5 **Q.** And you made the decision throughout the
02 37 12PM 6 course of this seminar to stay up late and write
02 37 16PM 7 that journal; correct?

02 37 17PM 8 **A. Correct.**

02 37 18PM 9 **Q.** Other people didn't stay up late;
02 37 21PM 10 correct?

02 37 21PM 11 **A. Correct.**

02 37 21PM 12 **Q.** Some did and you met them in the dining
02 37 25PM 13 hall and you guys were journaling; correct?

02 37 28PM 14 **A. Correct.**

02 37 29PM 15 **Q.** You were playing full on is the term
02 37 31PM 16 Mr. Ray used; correct?

02 37 32PM 17 **A. Yes.**

02 37 33PM 18 **Q.** And, again, the reason was because this
02 37 35PM 19 would enhance your life and your ability to take
02 37 38PM 20 control of your life; correct?

02 37 39PM 21 **A. Correct.**

02 37 42PM 22 **Q.** So you throw your journal in this
02 37 46PM 23 fireplace; correct?

02 37 47PM 24 **A. Yes.**

02 37 48PM 25 **Q.** And did it look similar to that when it
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02 37 52PM 1 was burning?

02 37 53PM 2 **A. There was lots of paper on the fire and**
02 37 57PM 3 **there were little bits flying everywhere.**

02 37 59PM 4 **Q.** What I'm pointing out in Exhibit 144 is
02 38 03PM 5 the logs themselves. Those don't appear to be like
02 38 07PM 6 tree stumps to me. Do they to you?

02 38 10PM 7 **A. No.**

02 38 10PM 8 **Q.** They look like they're some type of
02 38 13PM 9 manufactured logs, if you know?

02 38 15PM 10 **A. I don't know.**

02 38 16PM 11 **Q.** Okay. Clearly not --

02 38 17PM 12 **A. It looks like wood.**

02 38 19PM 13 **Q.** Yeah. But clearly not the type of
02 38 21PM 14 firewood where you go out, cut it with a chain saw,
02 38 23PM 15 bring it home and stack it, or limbs off trees,
02 38 27PM 16 stuff like that; correct? You can look at it.

02 38 28PM 17 **A. I don't think so.**

02 38 29PM 18 **Q.** Looks like something that's been run
02 38 31PM 19 through a mill; correct?

02 38 32PM 20 **A. I wouldn't know.**

02 38 33PM 21 **Q.** Just asking you based on the picture. I
02 38 37PM 22 understand you didn't cut the wood.

02 38 38PM 23 **A. No. But I don't know wood.**

02 38 43PM 24 **Q.** Okay. Thank you.

02 38 57PM 25 Your Honor, there's a stipulation to 511.

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02:39:01PM 1 May I publish it?

02:39:02PM 2 THE COURT: Yes. 511 is admitted.

02:39:05PM 3 And you may do that.

02:39:11PM 4 (Exhibit 511 admitted.)

02:39:17PM 5 Q. BY MR. KELLY: This is a picture of the

02:39:13PM 6 sweat lodge; correct?

02:39:14PM 7 A. Correct.

02:39:14PM 8 Q. And what I'm trying to point out to you

02:39:15PM 9 is a picture of the door. That's the door you

02:39:17PM 10 entered and left?

02:39:18PM 11 A. I believe so. Yes.

02:39:18PM 12 Q. It shows the respective height of the

02:39:23PM 13 door, how you had to scrunch down or crawl in;

02:39:26PM 14 correct?

02:39:26PM 15 A. Correct.

02:39:55PM 16 Q. And when you got into the lodge, you told

02:39:58PM 17 us that you went to about the 3:00 o'clock

02:40:01PM 18 position; correct?

02:40:01PM 19 A. Yes.

02:40:02PM 20 Q. And you hung up your tobacco pouch;

02:40:08PM 21 correct?

02:40:08PM 22 A. Yes.

02:40:17PM 23 MR. KELLY: Your Honor, there's an agreement

02:40:19PM 24 as to 325.

02:40:22PM 25 THE COURT: 325 is admitted.

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02:40:27PM 1 (Exhibit 325 admitted.)

02:40:28PM 2 Q. BY MR. KELLY: Take a look at

02:40:30PM 3 Exhibit 325.

02:40:31PM 4 May I approach the witness?

02:40:33PM 5 THE COURT: Yes.

02:40:35PM 6 Q. BY MR. KELLY: Sometimes, Ms. Phillips,

02:40:36PM 7 it's just not as clear. But are those the tobacco

02:40:38PM 8 pouches?

02:40:41PM 9 A. I don't recall it looking particularly

02:40:44PM 10 like that. That looks like one group.

02:40:44PM 11 Q. Okay. And I --

02:40:50PM 12 A. But it looks like tobacco pouches. Yes.

02:40:53PM 13 Q. Looks very similar to the one you made --

02:40:53PM 14 A. Yes.

02:40:56PM 15 Q. -- back in October 2009?

02:40:58PM 16 Did you hang it off the ceiling in a

02:41:02PM 17 similar fashion?

02:41:03PM 18 A. Yes.

02:41:03PM 19 Q. How many tobacco pouches were in your

02:41:07PM 20 string?

02:41:07PM 21 A. I believe there were five or seven. I

02:41:11PM 22 can't recall clearly.

02:41:11PM 23 Q. Just show the jury with your hands how

02:41:13PM 24 big each pouch is.

02:41:17PM 25 A. Each pouch was made by a square. And so

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02:41:20PM 1 it turned out to be a little circle with fabric

02:41:24PM 2 that you tied with a string.

02:41:25PM 3 Q. And then inside that little square is

02:41:29PM 4 this concentrated chewing tobacco?

02:41:33PM 5 A. It's chewing tobacco. Yes.

02:41:36PM 6 Q. So you enter, you go around to the

02:41:38PM 7 3:00 o'clock position, you lay down next to Sylvia,

02:41:43PM 8 you bring up the flap a few times, and then you

02:41:45PM 9 leave and you go back in on the fourth round;

02:41:48PM 10 correct?

02:41:48PM 11 A. After the fourth round. Yes.

02:41:50PM 12 Q. Now, when you came out -- well, let's go

02:41:53PM 13 to the first round.

02:41:54PM 14 People left during the first round;

02:41:58PM 15 correct?

02:41:58PM 16 A. People left after the first round.

02:41:59PM 17 Q. Okay. Thank you. People left when the

02:42:03PM 18 door was opened?

02:42:04PM 19 A. Yes.

02:42:05PM 20 Q. So people left after the first round;

02:42:07PM 21 correct?

02:42:07PM 22 A. Correct.

02:42:08PM 23 Q. So they made the decision to leave? No

02:42:10PM 24 one stopped them, and they left; correct?

02:42:12PM 25 A. Correct.

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02:42:12PM 1 Q. When you enter in during the first round,

02:42:16PM 2 you told us it was dark or dim but you could see

02:42:20PM 3 people in there; correct?

02:42:21PM 4 A. Correct.

02:42:22PM 5 Q. What could you hear?

02:42:23PM 6 A. You could hear people clearly.

02:42:25PM 7 Q. Okay. And what they were doing was they

02:42:30PM 8 were chanting; correct? Well, I don't know if

02:42:32PM 9 that's the right word.

02:42:33PM 10 They were shouting out something like, I

02:42:36PM 11 want to be a better dad, and then they would

02:42:38PM 12 receive the encouragement of the group; correct?

02:42:41PM 13 A. There was a lot of that going on. Yes.

02:42:43PM 14 Q. So it was noisy in there?

02:42:45PM 15 A. Yes.

02:42:45PM 16 Q. And it was hot, as you described;

02:42:47PM 17 correct?

02:42:47PM 18 A. Yes.

02:42:48PM 19 Q. As it said in the release, intense heat;

02:42:52PM 20 correct?

02:42:52PM 21 A. Correct.

02:42:53PM 22 Q. After the second round people left;

02:42:58PM 23 correct?

02:42:58PM 24 A. I believe so.

02:42:58PM 25 Q. And then, of course, you left after the

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02 43 00PM 1 third round. And I think you told Ms. Polk some
 02 43 03PM 2 other folks came out with you. Correct?
 02 43 05PM 3 **A. I believe so. Yes.**
 02 43 06PM 4 **Q.** You go back in on the fourth round and
 02 43 07PM 5 you sit down. And this time you're in close
 02 43 14PM 6 proximity to Kirby; correct?
 02 43 16PM 7 **A. I came in after the fourth round -- I'm**
 02 43 19PM 8 **not sure which round. And I was near her both**
 02 43 22PM 9 **times.**
 02 43 26PM 10 **Q.** You could, based on your friendship with
 02 43 30PM 11 Kirby, identify her voice; correct?
 02 43 32PM 12 **A. I was not actually friends with her. I**
 02 43 35PM 13 **had met her and I liked her.**
 02 43 39PM 14 **Q.** Okay. Based on your relationship with
 02 43 42PM 15 Kirby, having met her, you knew the sound of her
 02 43 46PM 16 voice; correct?
 02 43 47PM 17 **A. I'm not sure I could identify her voice.**
 02 43 50PM 18 **Q.** Okay. You told Ms. Polk that Kirby was
 02 43 53PM 19 making sounds and making statements. Do you recall
 02 43 58PM 20 that?
 02 43 58PM 21 **A. I believed that it was her.**
 02 43 58PM 22 **Q.** Okay.
 02 44 00PM 23 **A. And I'm sorry. I testified to the**
 02 44 03PM 24 **sheriff that I thought it was her.**
 02 44 05PM 25 **Q.** Right. And so I have a real simple point
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02 44 10PM 1 here. You're in close proximity to her. You know
 02 44 12PM 2 what she looks like. It's dim. You know she's
 02 44 16PM 3 there. Later you hear sounds and words and you
 02 44 18PM 4 believe them to come from Kirby; correct?
 02 44 20PM 5 **A. Correct.**
 02 44 20PM 6 **Q.** And you're just trying to be as truthful
 02 44 26PM 7 as possible; correct?
 02 44 26PM 8 **A. Correct.**
 02 44 27PM 9 **Q.** Thank you. At some point in time, Lou
 02 44 34PM 10 apparently stumbles and puts his hand in the fire
 02 44 37PM 11 pit; correct?
 02 44 38PM 12 **A. Correct.**
 02 44 39PM 13 **Q.** And you heard him scream, scream like a
 02 44 43PM 14 little boy; correct?
 02 44 44PM 15 **A. I believe I used the term an "inhumane**
 02 44 50PM 16 **scream." It could have been -- it could have been**
 02 44 54PM 17 **in the testimony on the sheriff, but it was a**
 02 44 56PM 18 **scream.**
 02 44 57PM 19 **Q.** Okay. And when you heard this, you knew
 02 45 03PM 20 that something had happened; correct?
 02 45 05PM 21 **A. Correct.**
 02 45 10PM 22 **Q.** And you heard that -- Mr. Ray say
 02 45 15PM 23 something like now you'll have a memento or a badge
 02 45 20PM 24 or a scar to memorialize this event?
 02 45 20PM 25 **A. Correct.**
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02 45 20PM 1 **Q.** I can't recall your exact words. Try to,
 02 45 23PM 2 if you could, your best recollection as to the
 02 45 25PM 3 exact words.
 02 45 26PM 4 **A. I believe he said, boy, you're going to**
 02 45 31PM 5 **have a mark to remember this by.**
 02 45 35PM 6 **Q.** A mark to remember this by. Did you
 02 45 36PM 7 know, Ms. Phillips, that Lou and James Ray had been
 02 45 39PM 8 friends for over 20 years?
 02 45 41PM 9 **A. Yes, I did.**
 02 45 42PM 10 **Q.** You okay?
 02 46 17PM 11 **A. Uh-huh.**
 02 46 18PM 12 **Q.** Okay. When he fell into the pit with the
 02 46 23PM 13 rocks, he left; correct?
 02 46 26PM 14 **A. He did.**
 02 46 27PM 15 **Q.** And do you recall him coming back in
 02 46 30PM 16 after he left like you did?
 02 46 32PM 17 **A. Yes.**
 02 46 32PM 18 **Q.** He fell into the pit on his way out -- we
 02 46 37PM 19 don't know if he was on his way out. He fell into
 02 46 40PM 20 the pit before he left; correct?
 02 46 41PM 21 **A. Correct.**
 02 46 42PM 22 **Q.** And then you saw him return later;
 02 46 45PM 23 correct?
 02 46 45PM 24 **A. Yes.**
 02 46 46PM 25 **Q.** And you made a statement that you saw
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02 46 49PM 1 chunks of meat falling off or something like that.
 02 46 53PM 2 Do you recall that?
 02 46 54PM 3 **A. I don't recall that.**
 02 46 56PM 4 **Q.** Okay. That would be an exaggeration is
 02 46 59PM 5 my point; correct?
 02 47 02PM 6 **A. There were bits of flesh.**
 02 47 09PM 7 **Q.** Like road rash or something, perhaps?
 02 47 14PM 8 **A. Perhaps.**
 02 47 15PM 9 **Q.** And, of course, it's hot in here. You're
 02 47 19PM 10 not comfortable. You're in the lodge at this time
 02 47 24PM 11 next to your good friend Theresa, and you and
 02 47 27PM 12 Theresa are talking back and forth; correct?
 02 47 32PM 13 **A. Correct.**
 02 47 32PM 14 **Q.** This happens at some distance away;
 02 47 34PM 15 correct?
 02 47 34PM 16 **A. Correct.**
 02 47 34PM 17 **Q.** It's dark; correct?
 02 47 35PM 18 **A. Yes.**
 02 47 35PM 19 **Q.** And you're not trying to mislead this
 02 47 37PM 20 jury. That's just -- that's your recollection --
 02 47 41PM 21 **A. I don't recall seeing his arm in the**
 02 47 45PM 22 **tent. I recall seeing his arm after the event.**
 02 47 48PM 23 **Q.** Okay. And after the event, then, he put
 02 47 50PM 24 his arm in a five-gallon bucket of ice water?
 02 47 55PM 25 **A. I was not present for that.**
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02 47 56PM 1 Q. So this, then, would be after the water,
 02 47 58PM 2 after he had done that; correct?
 02 48 01PM 3 A. **Correct.**
 02 48 03PM 4 Q. And it's your recollection that there
 02 48 06PM 5 were little bits of skin coming off; correct?
 02 48 06PM 6 A. **Correct.**
 02 48 08PM 7 Q. And all I'm trying to do is correct me on
 02 48 10PM 8 this image I had in my mind of chunks of flesh.
 02 48 13PM 9 That's like half of pound -- you know -- of meat
 02 48 15PM 10 coming out of the body. And that's not happening;
 02 48 18PM 11 correct?
 02 48 18PM 12 A. **No. That was not what was happening.**
 02 48 20PM 13 Q. Thank you for clarifying that.
 02 48 22PM 14 And he did come back in after he fell in
 02 48 25PM 15 the rocks; correct?
 02 48 25PM 16 A. **Yes, he did.**
 02 48 28PM 17 Q. And I think many times -- I think I've
 02 48 28PM 18 done this. But just to make sure that the jury
 02 48 32PM 19 understands, there's no fire in this sweat lodge;
 02 48 35PM 20 correct?
 02 48 35PM 21 A. **Correct.**
 02 48 35PM 22 Q. It's just hot rocks and then they throw
 02 48 38PM 23 water on them?
 02 48 39PM 24 A. **Correct.**
 02 48 39PM 25 Q. And at times do they put sandalwood or
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02 48 43PM 1 something on the rocks? Or do you know?
 02 48 45PM 2 A. **I don't know what substance it was. It**
 02 48 47PM 3 **was an herb of some sort.**
 02 48 50PM 4 Q. But no actual fire with smoke; correct?
 02 48 53PM 5 A. **Correct.**
 02 48 56PM 6 Q. Towards the later rounds, then, you
 02 48 58PM 7 hear -- and you testified about this on direct.
 02 49 08PM 8 You hear Kirby encouraging other people, we can do
 02 49 09PM 9 it. We can do it, things of that nature; correct?
 02 49 15PM 10 A. **Correct.**
 02 49 18PM 11 Q. And she was so enthusiastic and
 02 49 22PM 12 encouraging other people to make it through this
 02 49 24PM 13 event that some people actually asked her to quiet
 02 49 27PM 14 down?
 02 49 28PM 15 A. **People were telling her to be quiet.**
 02 49 31PM 16 Q. And then later -- and now, I take it from
 02 49 37PM 17 your testimony that you remember these -- these
 02 49 42PM 18 rounds to be about five minutes, somewhere in
 02 49 44PM 19 there, five to ten minutes apart. Fair statement?
 02 49 47PM 20 A. **Yes.**
 02 49 47PM 21 Q. And you told Ms. Polk something about
 02 49 54PM 22 losing track of time. I forgot the exact term.
 02 49 54PM 23 A. **Yes. That's my best guesstimate.**
 02 49 57PM 24 Q. Right. Because it's like taking --
 02 49 58PM 25 you've taken an exam where you're so focused on the
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02 50 02PM 1 exam you lose track of time and --
 02 50 02PM 2 A. **Exactly.**
 02 50 06PM 3 Q. -- all of a sudden a half hour is gone;
 02 50 08PM 4 correct?
 02 50 07PM 5 Or participating in a particular event,
 02 50 08PM 6 like an athletic event, you might lose all track of
 02 50 12PM 7 time; correct?
 02 50 12PM 8 A. **Yes.**
 02 50 13PM 9 Q. So sometime later, then, you start
 02 50 16PM 10 noticing or hearing some things that cause you a
 02 50 23PM 11 great deal of concern; correct?
 02 50 25PM 12 A. **Yes.**
 02 50 25PM 13 Q. Coming from the direction where Kirby is;
 02 50 28PM 14 correct?
 02 50 28PM 15 A. **Yes.**
 02 50 28PM 16 Q. And that was kind of breathing heavy and
 02 50 31PM 17 she was slumped over; correct?
 02 50 33PM 18 A. **There was a snorting type of heavy**
 02 50 36PM 19 **breath. Yes.**
 02 50 37PM 20 Q. And you told someone, hey. We've got to
 02 50 41PM 21 help this lady -- or -- and I'm -- these are my
 02 50 43PM 22 words, not yours. But something along those lines;
 02 50 47PM 23 correct?
 02 50 47PM 24 A. **Correct.**
 02 50 47PM 25 Q. And it was the person next to her who
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02 50 50PM 1 said, no. She's fine; correct?
 02 50 52PM 2 A. **Correct.**
 02 50 52PM 3 Q. And that person next to her we know had a
 02 50 55PM 4 male voice; correct?
 02 50 58PM 5 A. **Correct.**
 02 50 57PM 6 Q. But Mr. Ray was at the door. So we know
 02 51 01PM 7 it was not Mr. Ray who said that; correct?
 02 51 03PM 8 A. **Correct.**
 02 51 11PM 9 Q. And I'm not picking on you, but you said
 02 51 17PM 10 that she was suffering from delirium. Do you
 02 51 21PM 11 recall that?
 02 51 21PM 12 A. **I -- that's what I thought.**
 02 51 23PM 13 Q. Okay. And I just want to clarify. First
 02 51 26PM 14 of all, you're not a medical doctor; correct?
 02 51 29PM 15 A. **No, I'm not.**
 02 51 29PM 16 Q. So you're not using that word in a
 02 51 31PM 17 medical sense. Fair statement?
 02 51 33PM 18 A. **No, I'm not.**
 02 51 33PM 19 Q. You're using it based on what Melissa
 02 51 38PM 20 Phillips thinks delirium is; right?
 02 51 40PM 21 A. **Exactly.**
 02 51 41PM 22 Q. And what did you think it is?
 02 51 42PM 23 A. **I thought she was not acting in her right**
 02 51 45PM 24 **mind and that by leaning back and forth and saying**
 02 51 48PM 25 **over and over in the tone of voice she was, that**
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02 51 52PM 1 was more distressing. And so I called that
 02 51 57PM 2 "delirium."
 02 51 59PM 3 Q. Okay. And you're becoming alarmed, I
 02 52 04PM 4 take it?
 02 52 06PM 5 A. Yes.
 02 52 11PM 6 Q. And you shout over there -- you know --
 02 52 14PM 7 she's not doing well? We have to do something? Or
 02 52 17PM 8 something to that effect; correct?
 02 52 18PM 9 A. Correct.
 02 52 19PM 10 Q. And the person -- the man next to her
 02 52 21PM 11 says, no. She's fine; correct?
 02 52 24PM 12 A. Correct.
 02 52 24PM 13 Q. And didn't Kirby also say, no, I'm fine?
 02 52 28PM 14 A. I don't recall.
 02 52 36PM 15 Q. And, of course, you feel bad about not
 02 52 55PM 16 taking some more affirmative step; correct?
 02 52 59PM 17 A. Definitely, yes.
 02 53 04PM 18 MR. KELLY: Judge, could -- would this be a
 02 53 06PM 19 good time for the --
 02 53 06PM 20 THE COURT: It's fine. We can do that.
 02 53 09PM 21 Ladies and gentlemen, we will take the
 02 53 11PM 22 afternoon recess. Please remember the admonition.
 02 53 13PM 23 Don't talk to anyone about the case. Don't let
 02 53 15PM 24 anyone talk to you about it. Keep an open mind
 02 53 17PM 25 about the case.

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02 53 18PM 1 Of course, Ms. Phillips, I'll also remind
 02 53 21PM 2 you of the rule of exclusion of witnesses.
 02 53 23PM 3 Please be reassembled at 15 after, 3:15.
 02 53 26PM 4 Thank you.
 03 17 24PM 5 (Recess.)
 03 17 24PM 6 THE COURT: The record will show the
 03 17 26PM 7 presence of the defendant, Mr. Ray, the attorneys,
 03 17 28PM 8 and the jury. Ms. Phillips is back on the witness
 03 17 32PM 9 stand.
 03 17 32PM 10 Mr. Kelly, you may continue with
 03 17 34PM 11 cross-examination.
 03 17 35PM 12 MR. KELLY: Thank you, Judge.
 03 17 38PM 13 Q. Ma'am, I just have a few more questions
 03 17 40PM 14 and I'll be finished.
 03 17 42PM 15 We talked for a moment about altered
 03 17 45PM 16 states, I believe it is; correct?
 03 17 47PM 17 A. Correct.
 03 17 47PM 18 Q. And I want to emphasize something. And
 03 17 50PM 19 that is at this Spiritual Warrior seminar in
 03 17 53PM 20 Sedona, no alcohol was allowed; correct?
 03 17 56PM 21 A. Correct.
 03 17 58PM 22 Q. And no drugs of any type --
 03 17 58PM 23 A. Correct.
 03 17 58PM 24 Q. -- right? I suppose some people could
 03 18 05PM 25 think there are some altered states associated with

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03 18 07PM 1 taking specific drugs or drinking alcohol.
 03 18 10PM 2 Correct?
 03 18 10PM 3 A. Correct.
 03 18 11PM 4 Q. But these seminars were 180 degrees away
 03 18 14PM 5 from that; correct?
 03 18 15PM 6 A. This seminar was.
 03 18 18PM 7 Q. Okay. I also mention we talked a great
 03 18 25PM 8 deal about freedom of choice and making your own
 03 18 28PM 9 decisions. In that regard -- and I'll probably
 03 18 32PM 10 mispronounce his name. So correct me if you need
 03 18 36PM 11 to. But do you recall that Dr. Marzvaan and Simeon
 03 18 45PM 12 Marzvaan left early during the seminar? Did you
 03 18 46PM 13 know that or had you met them?
 03 18 49PM 14 A. I did not know.
 03 18 51PM 15 Q. Okay. Did you know an Elsa Hefstad, by
 03 18 56PM 16 chance?
 03 18 56PM 17 A. No.
 03 18 56PM 18 Q. And the question was going to be you know
 03 18 58PM 19 she left after Mr. Ray gave the presentation
 03 19 02PM 20 immediately before the sweat lodge. Did you see
 03 19 05PM 21 anybody leave?
 03 19 05PM 22 A. I did not.
 03 19 11PM 23 Q. We talked a little bit about the Vision
 03 19 13PM 24 Quest. And you did know Liz Neuman; correct?
 03 19 16PM 25 A. I had met her. Yes.

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03 19 18PM 1 Q. Did you know that she did not participate
 03 19 20PM 2 in the Vision Quest?
 03 19 21PM 3 A. I believe she was a Dream Team member.
 03 19 25PM 4 So no. She did not.
 03 19 33PM 5 MR. KELLY: I'm going to ask that Exhibit 414
 03 19 36PM 6 be published again to the jury.
 03 19 45PM 7 Q. What I'm going to ask you is -- if you
 03 19 47PM 8 would, and you've done this a couple of times. But
 03 19 50PM 9 when you came back into the sweat lodge the second
 03 19 52PM 10 time, please show us your approximate location.
 03 19 56PM 11 A. I came in and stopped approximately here.
 03 20 03PM 12 Q. Okay. Now, I've received some training
 03 20 07PM 13 on the break. Show us the approximate location of
 03 20 12PM 14 Kirby.
 03 20 16PM 15 Okay. That was supposed to be a
 03 20 22PM 16 different color.
 03 20 23PM 17 Show us the approximate location of James
 03 20 30PM 18 Shore.
 03 20 36PM 19 And Liz Neuman, if you know.
 03 20 34PM 20 And I want to make something clear. All
 03 20 36PM 21 these locations are your personal recollection?
 03 20 40PM 22 A. Correct.
 03 20 41PM 23 Q. I think you told us that James
 03 20 53PM 24 actually -- you saw him actually help another
 03 20 56PM 25 participant out of the sweat lodge?

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03 20 57PM 1 **A. I believe it was him with a few of the**
 03 21 00PM 2 **other gentlemen.**
 03 21 02PM 3 **Q. And that would be during the later**
 03 21 05PM 4 **rounds; correct?**
 03 21 07PM 5 **A. Earlier rounds.**
 03 21 07PM 6 **Q. Earlier rounds you said?**
 03 21 07PM 7 **MS. POLK: Your Honor, objection to the use of**
 03 21 10PM 8 **the word "James" without clarifying who James --**
 03 21 13PM 9 **which James we're talking about.**
 03 21 15PM 10 **MR. KELLY: I'll reask the question.**
 03 21 17PM 11 **Q. I'm talking about James Shore. Do you**
 03 21 17PM 12 **know --**
 03 21 19PM 13 **A. I understood that. Yes.**
 03 21 21PM 14 **Q. All right. So you believe he's the one**
 03 21 22PM 15 **that helped some folks out in the earlier rounds?**
 03 21 24PM 16 **A. I do believe so.**
 03 21 26PM 17 **Q. And he came back in; correct?**
 03 21 27PM 18 **A. I believe so. Yes.**
 03 21 29PM 19 **Q. Later is it also James Shore that you**
 03 21 33PM 20 **believe tried to leave out of the back of the tent?**
 03 21 38PM 21 **A. That is who I believe tried to exit the**
 03 21 40PM 22 **back. Yes.**
 03 21 41PM 23 **Q. And he didn't go towards the entrance**
 03 21 46PM 24 **like you did; correct?**
 03 21 47PM 25 **A. No, he did not.**
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03 21 51PM 1 **Q. You thought when you saw that person**
 03 21 54PM 2 **doing that that they were having a panic attack;**
 03 21 57PM 3 **correct?**
 03 21 57PM 4 **A. Correct.**
 03 22 02PM 5 **Q. A Dream Team member that you recall being**
 03 22 06PM 6 **present was an individual by the name of Mark Rock;**
 03 22 11PM 7 **correct?**
 03 22 11PM 8 **A. Correct.**
 03 22 11PM 9 **Q. And Mark was in the sweat lodge with you?**
 03 22 14PM 10 **A. Yes, he was.**
 03 22 15PM 11 **Q. And your recollection is that Mr. Rock**
 03 22 18PM 12 **was going in and out of lucidity throughout the**
 03 22 24PM 13 **event; correct?**
 03 22 24PM 14 **A. Yes. I believed we all had been. Yes.**
 03 22 28PM 15 **Q. Okay. But I'm asking about Mark.**
 03 22 30PM 16 **A. Yes.**
 03 22 30PM 17 **Q. So let me back up and ask what we call**
 03 22 34PM 18 **"foundational questions."**
 03 22 38PM 19 **Was he -- did you know where he was**
 03 22 38PM 20 **seated, the approximate location?**
 03 22 39PM 21 **A. Yes.**
 03 22 44PM 22 **Q. So, again, given the environment you were**
 03 22 46PM 23 **in, you were able to observe Mr. Rock; correct?**
 03 22 46PM 24 **A. Yes.**
 03 22 47PM 25 **Q. I mean, he was one of those people you**
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03 22 50PM 1 **knew was present --**
 03 22 50PM 2 **A. Yes.**
 03 22 51PM 3 **Q. -- and in the location where he was at.**
 03 22 54PM 4 **Where do you think he was from you?**
 03 22 54PM 5 **A. (No audible response.)**
 03 23 00PM 6 **Q. And you believe he was in and out of**
 03 23 04PM 7 **lucidity; correct?**
 03 23 06PM 8 **A. I do believe so.**
 03 23 09PM 9 **Q. And, again, you're not a medical doctor;**
 03 23 11PM 10 **right?**
 03 23 11PM 11 **A. No, I'm not.**
 03 23 12PM 12 **Q. So explain to the jury what you mean in**
 03 23 15PM 13 **using that term.**
 03 23 17PM 14 **A. It's not lucidity when you are -- when**
 03 23 24PM 15 **you're seeing clearly and when you can understand**
 03 23 27PM 16 **clearly and you can communicate clearly. And if**
 03 23 29PM 17 **you are not able to do those, then you are less**
 03 23 32PM 18 **lucid. That's my understanding.**
 03 23 34PM 19 **Q. Okay. So that's your definition, that he**
 03 23 38PM 20 **was not seeing things clearly, not hearing things**
 03 23 41PM 21 **clearly, not speaking things clearly; right?**
 03 23 43PM 22 **A. Yes.**
 03 23 48PM 23 **Q. And you told us that during the pregame**
 03 24 05PM 24 **presentation you were told that you could leave and**
 03 24 10PM 25 **how to leave. We went through that?**
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03 24 12PM 1 **A. Correct.**
 03 24 13PM 2 **Q. And you recall a woman asking, well, I**
 03 24 15PM 3 **have a heart problem. Should I go or stay?**
 03 24 18PM 4 **A. I believe she asked because it was a high**
 03 24 20PM 5 **blood pressure problem.**
 03 24 21PM 6 **Q. And what was Mr. Ray's response?**
 03 24 24PM 7 **A. You have to know yourself. I'm not a**
 03 24 27PM 8 **doctor.**
 03 24 29PM 9 **Q. Consistent with the theme of the seminar,**
 03 24 32PM 10 **consistent with this idea of taking control of**
 03 24 35PM 11 **one's life, solving your problems, assuming the**
 03 24 38PM 12 **risk, knowing there's risk, Mr. Ray said something**
 03 24 44PM 13 **to the effect, you will have to make that decision?**
 03 24 47PM 14 **A. Yes.**
 03 24 56PM 15 **Q. After the event was over --**
 03 25 03PM 16 **And perhaps we can put Exhibit 145 up.**
 03 25 15PM 17 **You mentioned you came out of the door**
 03 25 18PM 18 **and laid down on one of these tarps?**
 03 25 21PM 19 **A. Yes.**
 03 25 21PM 20 **Q. It was this tarp here, I believe.**
 03 25 24PM 21 **A. Yes -- no. It was this tarp here.**
 03 25 26PM 22 **THE COURT: Okay. Go ahead and point.**
 03 25 32PM 23 **Q. BY MR. KELLY: You were hosed off. You**
 03 25 35PM 24 **indicated that you were able to crawl out by**
 03 25 37PM 25 **yourself?**
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- 03 25 38PM 1 **A. Yes.**
- 03 25 38PM 2 **Q.** And I think -- and I don't want to
- 03 25 43PM 3 mischaracterize anything. But you're feeling a
- 03 25 45PM 4 little weak in the legs and you don't really want
- 03 25 51PM 5 to stand up, so you're crawling out?
- 03 25 51PM 6 **A. You couldn't stand up inside, and I**
- 03 25 53PM 7 **decided to be safe and crawl.**
- 03 25 55PM 8 **Q.** Okay. And then -- but once you're out of
- 03 25 58PM 9 the tent, is my question, did you crawl over to
- 03 26 02PM 10 that tarp or did you get up and walk over there?
- 03 26 04PM 11 **A. I do not recall.**
- 03 26 08PM 12 **Q.** You were feeling somewhat disoriented,
- 03 26 12PM 13 light-headed?
- 03 26 12PM 14 **A. I was hot, nauseous, and headachy.**
- 03 26 16PM 15 **Q.** Hot? Nauseous? And someone talked.
- 03 26 20PM 16 Headachy?
- 03 26 20PM 17 **A. Headachy.**
- 03 26 23PM 18 **Q.** As you then sit or lie down on the
- 03 26 27PM 19 tarp --
- 03 26 27PM 20 **A. I felt weak.**
- 03 26 28PM 21 **Q.** -- you were hosed off with water?
- 03 26 30PM 22 **A. Yes.**
- 03 26 31PM 23 **Q.** And you said that you started taking care
- 03 26 33PM 24 of your friend; correct?
- 03 26 34PM 25 **A. Yes.**

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- 03 26 35PM 1 **Q.** And her name was -- tell me. I forgot.
- 03 26 37PM 2 **A. Theresa.**
- 03 26 38PM 3 **Q.** And you were -- I wrote this down --
- 03 27 04PM 4 using a technique of transferred breath?
- 03 27 07PM 5 **A. I studied transformational breath**
- 03 27 10PM 6 **therapy.**
- 03 27 10PM 7 **Q.** Okay. What is that?
- 03 27 11PM 8 **A. It's very similar to the holotropic**
- 03 27 14PM 9 **breath.**
- 03 27 16PM 10 **Q.** And were you encouraged --
- 03 27 18PM 11 **A. You breathe people --**
- 03 27 18PM 12 **Q.** Pardon me?
- 03 27 21PM 13 **A. You breathe people. You instruct them**
- 03 27 22PM 14 **how to breathe, and you say affirmations. And you**
- 03 27 26PM 15 **put your hands on their body.**
- 03 27 27PM 16 **Q.** So you're instructing or teaching Theresa
- 03 27 34PM 17 how to do this after she got --
- 03 27 35PM 18 **A. I was helping her. Yes. After.**
- 03 27 37PM 19 **Q.** Do you know whether she already knew this
- 03 27 40PM 20 technique?
- 03 27 40PM 21 **A. No, she did not.**
- 03 27 44PM 22 **Q.** So then you're actually teaching her how
- 03 27 45PM 23 to do it; correct?
- 03 27 45PM 24 **A. I wasn't teaching. I was just helping**
- 03 27 47PM 25 **her.**

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- 03 27 48PM 1 **Q.** Okay. You were helping her do it. And
- 03 27 48PM 2 so what do you do?
- 03 27 51PM 3 **A. I put my hands on her. I called upon the**
- 03 27 53PM 4 **angels and the "I AM" presence, and I said positive**
- 03 27 58PM 5 **affirmations. I did a leg press and just held her**
- 03 28 02PM 6 **feet, and I did everything I had been taught.**
- 03 28 07PM 7 **Q.** I guess I misunderstood. I thought you
- 03 28 10PM 8 said with transformational breath there was some
- 03 28 13PM 9 breathing exercise with it.
- 03 28 15PM 10 **A. You can do the breathing. I did the**
- 03 28 18PM 11 **affirmations and I used my energy to give to her.**
- 03 28 21PM 12 **Q.** And affirmations. Is that like you're
- 03 28 23PM 13 going to be okay?
- 03 28 25PM 14 **A. Yes.**
- 03 28 28PM 15 **Q.** And how long, then, did you treat your
- 03 28 31PM 16 friend Theresa?
- 03 28 33PM 17 **A. Guessing, 10, 15 minutes.**
- 03 28 38PM 18 **Q.** And after this she was okay?
- 03 28 39PM 19 **A. Yes.**
- 03 28 40PM 20 **Q.** Was she hosed down?
- 03 28 41PM 21 **A. Yes.**
- 03 28 44PM 22 **Q.** So at that point in time, I believe you
- 03 28 48PM 23 told us you did notice Mr. Ray come out and sit
- 03 28 52PM 24 down in a chair?
- 03 28 53PM 25 **A. Yes.**

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- 03 28 54PM 1 **Q.** And he was in the chair and he made some
- 03 28 58PM 2 comment about there's a nurse? I have a nurse? Or
- 03 29 03PM 3 go find the nurse? Something along those lines?
- 03 29 06PM 4 **A. Somebody asked him what to do. And he**
- 03 29 09PM 5 **said, I don't know. I'm not a nurse. Where is the**
- 03 29 13PM 6 **nurse? He pointed them to the nurse.**
- 03 29 16PM 7 **Q.** During that seminar in Sedona, did you
- 03 29 19PM 8 meet a lady by the name of Dr. Jean Armstrong?
- 03 29 24PM 9 **A. Not personally. Not that I recall.**
- 03 29 26PM 10 **Q.** Would you recognize her if you saw her?
- 03 29 28PM 11 **A. I might.**
- 03 29 30PM 12 **Q.** Okay. Did you see her after the sweat
- 03 29 38PM 13 lodge when you were treating your friend Theresa?
- 03 29 38PM 14 **A. I did not.**
- 03 29 50PM 15 **Q.** And you mentioned that someone was lying
- 03 29 52PM 16 there foaming at the mouth?
- 03 29 54PM 17 **A. Yes.**
- 03 29 55PM 18 **Q.** And you don't know who that person is?
- 03 29 57PM 19 **A. I do not know.**
- 03 29 58PM 20 **Q.** And, again, I understand you're not a
- 03 29 59PM 21 doctor. So explain to us what you mean by
- 03 30 01PM 22 "foaming."
- 03 30 02PM 23 **A. There was white foam literally around her**
- 03 30 05PM 24 **mouth.**
- 03 30 08PM 25 **Q.** Was someone helping her?

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03 30 09PM 1 A. **Yes, they were.**

03 30 12PM 2 Q. And something I've observed in all this

03 30 17PM 3 stuff is that participants back on October 8th,

03 30 22PM 4 2009, were encouraged to help one another?

03 30 25PM 5 A. **Yes.**

03 30 28PM 6 Q. In other words, as we mentioned, there

03 30 33PM 7 were people of very diverse backgrounds -- doctors,

03 30 36PM 8 business executives -- people of all different

03 30 37PM 9 backgrounds; correct?

03 30 38PM 10 A. **Correct.**

03 30 42PM 11 Q. And intelligent people; correct?

03 30 42PM 12 A. **Correct.**

03 30 45PM 13 Q. All there to help improve their lives;

03 30 45PM 14 correct?

03 30 48PM 15 A. **Correct.**

03 30 48PM 16 Q. And they were encouraged to help one

03 30 50PM 17 another throughout the course of this seminar;

03 30 50PM 18 correct?

03 30 51PM 19 A. **Correct.**

03 30 54PM 20 Q. And they did that; correct?

03 30 54PM 21 A. **Yes.**

03 31 04PM 22 Q. After you helped Theresa, then you went

03 31 06PM 23 to your room and took a shower; correct?

03 31 07PM 24 A. **I went to the shower. Yes.**

03 31 07PM 25 Q. And was it Angel -- somebody from Angel

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03 31 10PM 1 Valley said, go take a shower and come back?

03 31 12PM 2 A. **We were directed. I'm not sure who told**

03 31 15PM 3 **me at this time. The Dream Team members and the**

03 31 18PM 4 **Angel Valley people were directing people as soon**

03 31 22PM 5 **as they could get up and go, to go to take a shower**

03 31 26PM 6 **and change.**

03 31 26PM 7 Q. And someone gave you a ride up to your

03 31 28PM 8 room?

03 31 28PM 9 A. **Yes, they did.**

03 31 30PM 10 Q. And then how long were you up there do

03 31 32PM 11 you think?

03 31 32PM 12 A. **I do not know.**

03 31 34PM 13 Q. Was Theresa one of your roommates?

03 31 37PM 14 A. **Yes, she was.**

03 31 38PM 15 Q. Who were the other roommates?

03 31 42PM 16 A. **Sidney had left. And Laura was my other**

03 31 43PM 17 **roommate.**

03 31 43PM 18 Q. Was Laura back at the room with you?

03 31 47PM 19 A. **No. She was in the bathroom drying her**

03 31 48PM 20 **hair.**

03 31 48PM 21 Q. So what I meant was Laura had left the

03 31 54PM 22 sweat lodge area and she was back up at the room?

03 31 54PM 23 A. **She had left the sweat lodge area to take**

03 31 57PM 24 **a shower before I did. When I got to the washroom,**

03 32 00PM 25 **she was inside drying her hair.**

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03 32 04PM 1 Q. **Did you see her after that?**

03 32 06PM 2 A. **Yes, I did.**

03 32 08PM 3 Q. Do you know where she went afterwards?

03 32 09PM 4 A. **I saw her later in the dining hall.**

03 32 11PM 5 Q. And that was going to be my question,

03 32 14PM 6 then. You and Theresa go back to the dining hall?

03 32 17PM 7 A. **Theresa and her husband went back to her**

03 32 20PM 8 **bed and laid in bed and snuggled for a while**

03 32 25PM 9 **because they were both shaking. And later in the**

03 32 28PM 10 **evening I saw them both in the dining hall.**

03 32 31PM 11 Q. And didn't Jennifer Haley make contact

03 32 35PM 12 with you and encourage you to go to the dining

03 32 38PM 13 hall?

03 32 38PM 14 A. **I believe she did.**

03 32 40PM 15 Q. And did you recall her mentioning

03 32 43PM 16 something about carbon monoxide poisoning and don't

03 32 48PM 17 go to sleep?

03 32 48PM 18 A. **I don't recall her saying that. I asked**

03 32 51PM 19 **the paramedic when I -- I asked the paramedic's**

03 32 57PM 20 **advice.**

03 32 57PM 21 Q. When you get back to the dining hall,

03 33 00PM 22 then, is that where a bunch of people were?

03 33 02PM 23 A. **Yes.**

03 33 02PM 24 Q. And a bunch of emergency medical

03 33 08PM 25 providers?

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03 33 07PM 1 A. **Yes.**

03 33 07PM 2 Q. Some sheriffs?

03 33 09PM 3 A. **Yes.**

03 33 09PM 4 Q. Was there a discussion about carbon

03 33 15PM 5 monoxide? Did you hear anything?

03 33 17PM 6 A. **I heard from the paramedic --**

03 33 19PM 7 Q. Okay. I don't want you to tell me. I'm

03 33 21PM 8 just asking in general terms. Did you hear

03 33 23PM 9 something about carbon monoxide?

03 33 25PM 10 A. **I did.**

03 33 25PM 11 Q. Did you hear something about

03 33 28PM 12 organophosphates?

03 33 28PM 13 A. **I do not recall that term.**

03 33 31PM 14 Q. Did you hear anyone talk about whether or

03 33 34PM 15 not it was rat poisoning?

03 33 35PM 16 A. **No. I do not recall that.**

03 33 38PM 17 Q. From my understanding as based on the

03 33 47PM 18 carbon monoxide statement, you then went to the

03 33 51PM 19 hospital to be checked on. Correct?

03 33 53PM 20 A. **Yes. Because of my symptoms I thought it**

03 33 58PM 21 **prudent.**

03 33 59PM 22 Q. And we actually have Exhibit 204 in

03 34 08PM 23 evidence. And it is the Verde Valley Fire District

03 34 11PM 24 report written by the fireman. It says that you

03 34 18PM 25 walked out to the ambulance. Do you recall that?

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03 34 18PM 1 **A. Yes.**

03 34 19PM 2 **Q.** Indicating that you felt nauseated and

03 34 23PM 3 had a headache; right?

03 34 25PM 4 **A. Correct.**

03 34 26PM 5 **Q.** Then you are taken to the Verde Valley

03 34 42PM 6 Medical Center. And this document indicates at

03 34 46PM 7 about five minutes to midnight. Does that sound

03 34 50PM 8 about right?

03 34 50PM 9 **A. It was very late.**

03 34 51PM 10 **Q.** And I don't know if I'm reading this

03 34 54PM 11 right. But it indicates you were there until 4:00

03 34 57PM 12 in the morning. Does that sound right?

03 34 57PM 13 **A. Yes.**

03 35 01PM 14 **Q.** And you were treated, as you already

03 35 04PM 15 described by Ms. Polk -- or in response to

03 35 07PM 16 questions by Ms. Polk. You didn't receive an IV of

03 35 13PM 17 any type; right?

03 35 13PM 18 **A. No, I did not.**

03 35 15PM 19 **Q.** Of course, you weren't hospitalized. You

03 35 21PM 20 were release to go home and talk to your doctor if

03 35 23PM 21 you needed to; right?

03 35 25PM 22 **A. Correct.**

03 35 46PM 23 **Q.** Did -- I asked you a question in the

03 35 50PM 24 dining hall. But did any of these paramedics or

03 35 53PM 25 other emergency medical treatment providers mention

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03 35 56PM 1 the word "organophosphate" to you?

03 36 01PM 2 **A. I do not recall that term being used.**

03 36 35PM 3 **MR. KELLY:** May I have a moment, Judge? I

03 36 35PM 4 just have one more question. I don't want to lose

03 36 35PM 5 all these exhibits.

03 36 35PM 6 (Pause in proceedings.)

03 37 00PM 7 **Q.** BY MR. KELLY: You told us about the --

03 37 02PM 8 treating Theresa on the transformational breath

03 37 06PM 9 work. You didn't learn that in a James Ray

03 37 11PM 10 seminar?

03 37 12PM 11 **A. No, I did not.**

03 37 14PM 12 **Q.** You were asked a lot of questions about

03 37 23PM 13 your Journey of Power. Do you recall those

03 37 26PM 14 questions?

03 37 26PM 15 **A. I do.**

03 37 26PM 16 **Q.** And they're all the side conferences with

03 37 28PM 17 Ms. Polk and I arguing --

03 37 29PM 18 **A. Yes.**

03 37 30PM 19 **Q.** -- off the record.

03 37 37PM 20 This book are part of the laws of the

03 37 40PM 21 State of Arizona -- this big blue book. These

03 37 48PM 22 things that you know about transformational breath

03 37 52PM 23 work and the Journey of Power, taking control of

03 37 59PM 24 one's lives, your spiritual journey -- those are

03 37 59PM 25 metaphysical spiritual things; right? I mean, you

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03 38 02PM 1 understand what?

03 38 03PM 2 **A. I believe so.**

03 38 04PM 3 **Q.** Not legal principles?

03 38 07PM 4 **MS. POLK:** Objection, Your Honor. Calls for

03 38 11PM 5 speculation.

03 38 11PM 6 **MR. KELLY:** I can rephrase.

03 38 12PM 7 **Q.** When you went to these seminars for your

03 38 18PM 8 transformational breath work, your Journey of

03 38 19PM 9 Power, did you talk about elements of crime,

03 38 23PM 10 manslaughter?

03 38 24PM 11 **A. No, we did not.**

03 38 25PM 12 **Q.** Did you talk about burdens of proof that

03 38 28PM 13 the government has to prove someone guilty of a

03 38 31PM 14 crime?

03 38 31PM 15 **A. No, we did not.**

03 38 32PM 16 **Q.** Didn't talk anything about the law;

03 38 36PM 17 right? Criminal law.

03 38 39PM 18 **A. I don't believe so.**

03 38 41PM 19 **Q.** You were talking about other more

03 38 44PM 20 personal, spiritual things; correct?

03 38 44PM 21 **A. There were many stories. There were many**

03 38 48PM 22 **lessons. There were diverse things.**

03 38 53PM 23 **Q.** Self-improvement, to take control of your

03 38 56PM 24 life, to make your own decisions, accept

03 38 59PM 25 responsibility. Those types of things; correct?

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03 39 01PM 1 **A. Yes.**

03 39 02PM 2 **Q.** To identify areas that need work in your

03 39 07PM 3 life and to solve those problems, become a better

03 39 10PM 4 person; correct?

03 39 11PM 5 **A. Yes.**

03 39 15PM 6 **Q.** To identify whatever your spiritual

03 39 20PM 7 belief is, to become stronger in your faith, and

03 39 24PM 8 accomplish whatever goals you set; correct?

03 39 26PM 9 **A. Correct.**

03 39 26PM 10 **Q.** And that requires this independence;

03 39 30PM 11 correct?

03 39 30PM 12 **A. I believe so.**

03 39 31PM 13 **Q.** It requires the ability to make your own

03 39 34PM 14 decision and not being persuaded by others to do

03 39 38PM 15 things that are wrong; correct?

03 39 39PM 16 **A. Yes.**

03 39 44PM 17 **MR. KELLY:** Thank you, Ms. Phillips.

03 39 47PM 18 **THE WITNESS:** Thank you.

03 39 51PM 19 **THE COURT:** Thank you, Mr. Kelly.

03 39 54PM 20 Redirect, Ms. Polk?

03 39 56PM 21 **MS. POLK:** Yes, Your Honor. Thank you.

03 40 00PM 22 May I proceed, Your Honor?

03 40 00PM 23 **THE COURT:** Whenever you're ready, Ms. Polk.

03 40 03PM 24 Thank you.

03 40 03PM 25 //

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REDIRECT EXAMINATION

03 40 43PM 1
03 40 43PM 2 BY MS. POLK:
03 40 44PM 3 Q. Ms. Phillips, that last line of
03 40 45PM 4 questioning from Mr. Kelly where he asked you about
03 40 46PM 5 some of the things that were the lessons of this
03 40 47PM 6 seminar -- self improvement, identifying areas in
03 40 48PM 7 your life, areas to become stronger -- was there
03 40 49PM 8 more to the seminar than just that?
03 41 00PM 9 A. I believe it was. Yes.
03 41 01PM 10 Q. Will you tell the jury what more.
03 41 02PM 11 A. The seminar was to improve yourself, to
03 41 03PM 12 be responsible. It was to live fully. It was to
03 41 04PM 13 experience things and do things you didn't think
03 41 05PM 14 you could. It was to overcome things. It was a
03 41 06PM 15 bonding experience.
03 41 07PM 16 Q. Was there a discussion during that week
03 41 08PM 17 about letting people have their own experiences?
03 41 09PM 18 A. Everyone was to have their own
03 41 10PM 19 experience.
03 41 11PM 20 Q. Who talked to you about letting people
03 41 12PM 21 have their own experience?
03 41 13PM 22 A. I believe it was Mr. Ray.
03 41 14PM 23 Q. Tell the jury what he said about letting
03 41 15PM 24 people have their own experience.
03 41 16PM 25 A. I don't recall the exact words.
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03 41 58PM 1 Q. What did that mean to you to let people
03 42 00PM 2 have their own experience?
03 42 01PM 3 A. Not to interfere so much and to let
03 42 02PM 4 people go on the path that they choose.
03 42 03PM 5 Q. Were you to let people have their own
03 42 04PM 6 experience throughout the various activities of the
03 42 05PM 7 week?
03 42 06PM 8 A. Yes.
03 42 07PM 9 Q. For example, in the Samurai Game were you
03 42 08PM 10 to let people have their own experience?
03 42 09PM 11 A. Yes.
03 42 10PM 12 Q. And for those who were inside Mr. Ray's
03 42 11PM 13 sweat lodge structure, were you supposed to let
03 42 12PM 14 people have their own experience?
03 42 13PM 15 A. I suppose so. Yes.
03 42 14PM 16 Q. And I put up -- back up on the overhead,
03 42 15PM 17 Ms. Phillips, Exhibit 138 that Mr. Kelly showed to
03 42 16PM 18 you. I just want to zoom in on -- you were asked a
03 42 17PM 19 question by Mr. Kelly about the cost of the
03 42 18PM 20 seminar?
03 42 19PM 21 A. Yes.
03 42 20PM 22 Q. Do you see over where I'm pointing it
03 42 21PM 23 says, investment, \$9,695?
03 42 22PM 24 A. Yes.
03 42 23PM 25 Q. Was this an investment for you?
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03 43 36PM 1 A. I chose to believe and think of it in
03 43 37PM 2 such a term. Yes.
03 43 38PM 3 Q. How was this an investment for you?
03 43 39PM 4 A. It was an investment in myself, in my
03 43 40PM 5 growth. I figured it was an investment in
03 43 41PM 6 self-improvement and an investment of experience.
03 43 42PM 7 Q. And your belief that the close to \$10,000
03 43 43PM 8 was an investment -- did that affect your desire to
03 43 44PM 9 enter into the activities of the week?
03 43 45PM 10 A. Yes. I wanted my money's worth.
03 43 46PM 11 Q. At some point during the Spiritual
03 43 47PM 12 Warrior seminar or at other seminars you had been
03 43 48PM 13 to, did Mr. Ray tell you about his qualifications
03 43 49PM 14 to be conducting these -- leading you in these
03 44 00PM 15 breakthrough activities?
03 44 01PM 16 MR. KELLY: Your Honor, objection. That's
03 44 02PM 17 beyond the scope.
03 44 03PM 18 THE COURT: Ms. Polk?
03 44 04PM 19 Sustained.
03 44 05PM 20 Q. BY MS. POLK: Well, let me ask you
03 44 06PM 21 directly about the exhibit up on the overhead,
03 44 07PM 22 then, Ms. Phillips. Do you see where I'm
03 44 08PM 23 pointing -- and these are the same bullet points
03 44 09PM 24 that Mr. Kelly went through with you.
03 44 10PM 25 This one starts out, you'll experience a
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03 45 04PM 1 new technologically enhanced form of meditation
03 45 05PM 2 that creates a new neurological -- that creates new
03 45 06PM 3 neurological pathways.
03 45 07PM 4 Were terms such as "neurological
03 45 08PM 5 pathways" discussed at the Spiritual Warrior
03 45 09PM 6 seminar by Mr. Ray with you?
03 45 10PM 7 A. Yes.
03 45 11PM 8 Q. Did you know what the term "neurological
03 45 12PM 9 pathway" means or do you know?
03 45 13PM 10 A. I believe a neurological pathway is the
03 45 14PM 11 path of the thoughts and the connectors in the
03 45 15PM 12 brain. And then when you do new things and expand,
03 45 16PM 13 you create new pathways.
03 45 17PM 14 Q. Is that something Mr. Ray told you?
03 45 18PM 15 A. It's also in the books that we had been
03 45 19PM 16 given to read.
03 45 20PM 17 Q. By Mr. Ray?
03 45 21PM 18 A. Yes.
03 45 22PM 19 Q. And then you were shown by Mr. Kelly
03 45 23PM 20 Exhibit 145, and your attention was drawn to some
03 45 24PM 21 of the people drinking water in this exhibit. Do
03 45 25PM 22 you know when this photograph was taken?
03 46 00PM 23 A. I do not.
03 46 01PM 24 Q. Do you believe you were somewhere present
03 46 02PM 25 when this photograph was taken?
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03 46 33PM 1 **A. I don't think so.**

03 46 35PM 2 **Q.** And, in fact, you have testified that

03 46 37PM 3 when you all lined up and went into the sweat

03 46 41PM 4 lodge, you were wearing shorts?

03 46 44PM 5 **A. Yes.**

03 46 47PM 6 **Q.** Do you see people not in shorts in this

03 46 48PM 7 photograph?

03 46 49PM 8 **A. Yes.**

03 46 52PM 9 **Q.** Did you ever meet the man who was the

03 46 53PM 10 fire tender?

03 46 55PM 11 **A. Yes.**

03 46 56PM 12 **Q.** Do you recall his name?

03 46 57PM 13 **A. No.**

03 46 58PM 14 **Q.** Do you see the man who was the fire

03 47 00PM 15 tender in this photograph?

03 47 01PM 16 **A. I can't identify him.**

03 47 07PM 17 **Q.** Let me zoom in on the man that was

03 47 10PM 18 pointed out to you as somebody drinking water. Do

03 47 12PM 19 you know who that is?

03 47 15PM 20 **A. I don't know. I can't -- I can't recall.**

03 47 25PM 21 **Q.** Do you believe this photograph was taken

03 47 27PM 22 at some time other than while you were inside the

03 47 30PM 23 sweat lodge?

03 47 32PM 24 **A. I don't know when it was taken. I have**

03 47 37PM 25 **no idea when.**

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03 47 42PM 1 **Q.** You were asked some questions from

03 47 57PM 2 Mr. Kelly about Ms. Neuman, who is now deceased,

03 48 01PM 3 and you stated she was a Dream Team member.

03 48 04PM 4 **A. Yes.**

03 48 04PM 5 **Q.** Was Liz Neuman inside the sweat lodge

03 48 07PM 6 with you?

03 48 07PM 7 **A. Yes, she was.**

03 48 08PM 8 **Q.** Do you know what her duties and

03 48 10PM 9 responsibilities inside that sweat lodge structure

03 48 13PM 10 were?

03 48 13PM 11 **A. I do not know fully what her duties were.**

03 48 16PM 12 **No.**

03 48 17PM 13 **Q.** Do you know partially what her duties

03 48 19PM 14 were?

03 48 19PM 15 **A. I had assumed that they had been**

03 48 23PM 16 **stationed at the north, south, east, and west to**

03 48 26PM 17 **watch out for us.**

03 48 30PM 18 **Q.** Were you present when instructions were

03 48 32PM 19 given to the Dream Team members about their duties

03 48 36PM 20 inside the sweat lodge?

03 48 37PM 21 **A. No.**

03 48 51PM 22 **Q.** You were asked some questions about your

03 48 58PM 23 position in the sweat lodge, and you have testified

03 48 59PM 24 that at some point you actually laid down?

03 48 59PM 25 **A. Yes.**

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03 48 59PM 1 **Q.** How did you find enough room to lie down

03 49 02PM 2 inside the sweat lodge?

03 49 03PM 3 **A. At one point I asked if someone could**

03 49 08PM 4 **shove over a little bit and then I laid down.**

03 49 11PM 5 **Q.** How crowded was it at that point?

03 49 13PM 6 **A. People were touching each other's**

03 49 16PM 7 **shoulders.**

03 49 23PM 8 **Q.** You were asked some questions by Mr. Ray

03 49 26PM 9 about the game called the "Samurai Game." And he

03 49 30PM 10 told you that it is a game played in Disneyland and

03 49 34PM 11 used in the military. Do you know that for a fact?

03 49 37PM 12 **A. I do not.**

03 49 37PM 13 **Q.** And, in fact, do you know if the game,

03 49 40PM 14 the Samurai Game, as played at Spiritual

03 49 45PM 15 Warrior 2009, as directed and led by Mr. Ray, is

03 49 48PM 16 the same Samurai Game played in the military or at

03 49 52PM 17 Disneyland as suggested by Mr. Kelly?

03 49 55PM 18 **A. I would not know.**

03 50 00PM 19 **Q.** During the pre -- during the briefing

03 50 06PM 20 before you went into the tent for this sweat lodge

03 50 08PM 21 ceremony, did Mr. Ray make any statements about how

03 50 14PM 22 his sweat lodge compared to other sweat lodges?

03 50 16PM 23 **A. Yes.**

03 50 19PM 24 **Q.** What were those?

03 50 20PM 25 **A. He said his were hotter.**

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03 51 00PM 1 **Q.** Do you have exhibits up there?

03 51 02PM 2 **A. I do. 201 and 202 and these here.**

03 51 17PM 3 **Q.** Mr. Kelly showed you Exhibit 201. And

03 51 24PM 4 I'm going to put that back up on the overhead. And

03 51 37PM 5 he highlighted and had you read. I'm going to

03 51 40PM 6 point to the area, the area where it says, I am

03 51 50PM 7 fully aware that I may suffer physical, emotional,

03 51 52PM 8 financial, or other injury during any of the

03 51 55PM 9 activities and there is and can be no assurance or

03 51 59PM 10 guarantee regarding my financial or other injury

03 52 05PM 11 during any of the -- I'm sorry. Let me start over

03 52 05PM 12 again.

03 52 06PM 13 I'm fully aware that I may suffer

03 52 11PM 14 physical, emotional, financial, or other injury

03 52 13PM 15 during any of the activities and there is and can

03 52 15PM 16 be no assurance or guarantee regarding my health or

03 52 17PM 17 safety in connection with my participation in the

03 52 22PM 18 activities.

03 52 22PM 19 Do you recall that line of questioning

03 52 24PM 20 from Mr. Kelly?

03 52 26PM 21 **A. Yes.**

03 52 27PM 22 **Q.** First of all, you signed that release

03 52 35PM 23 when you arrived at Angel Valley?

03 52 37PM 24 **A. Yes.**

03 52 38PM 25 **Q.** And you had already paid for the

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03 52 40PM 1 Spiritual Warrior seminar?

03 52 42PM 2 A. Yes.

03 52 42PM 3 Q. When you signed that release, did you

03 52 44PM 4 believe there was a possibility that somebody would

03 52 46PM 5 die?

03 52 47PM 6 A. No.

03 52 52PM 7 Q. Did you think that you were at risk of

03 52 54PM 8 dying inside Mr. Ray's sweat lodge structure?

03 52 58PM 9 A. No.

03 52 59PM 10 Q. Did you think you were at risk of dying

03 53 02PM 11 in doing any of the activities of the week?

03 53 04PM 12 A. No.

03 53 05PM 13 Q. And did you believe that somebody would

03 53 09PM 14 be taking care of you?

03 53 11PM 15 A. Yes.

03 53 11PM 16 Q. Who was that somebody that you thought

03 53 13PM 17 would be taking care of you during the week?

03 53 16PM 18 A. Either myself or one of the Dream Team

03 53 20PM 19 members.

03 53 20PM 20 Q. And how about Mr. Ray?

03 53 22PM 21 A. Yes.

03 53 24PM 22 Q. And does this waiver that you signed say

03 53 27PM 23 that by participating you were at risk of dying in

03 53 31PM 24 any of the activities?

03 53 33PM 25 A. I don't see on this one about death.

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03 53 40PM 1 MR. KELLY: Your Honor, misstates the

03 53 42PM 2 evidence. Judge, Exhibit 201.

03 53 50PM 3 THE COURT: The exhibit is in evidence and the

03 53 53PM 4 language stands as it is. That's what the jury

03 53 56PM 5 will see. So what's the objection?

03 53 57PM 6 MR. KELLY: The objection is the form of the

03 53 58PM 7 question. It misstates the evidence.

03 54 00PM 8 THE COURT: Okay.

03 54 01PM 9 Ms. Polk.

03 54 08PM 10 MS. POLK: Your Honor, I disagree. The

03 54 11PM 11 question was does this waiver that she signed say

03 54 16PM 12 that she's at risk of dying. And I just --

03 54 18PM 13 MR. KELLY: May I approach the prosecutor?

03 54 21PM 14 THE COURT: Yes. Let's make sure we're

03 54 22PM 15 looking at the same exhibit.

03 54 38PM 16 MS. POLK: This exhibit will speak for itself.

03 54 40PM 17 But my question was does it say that she was at

03 54 43PM 18 risk of dying. That's different from what she was

03 54 45PM 19 waiving civil liability for.

03 54 54PM 20 THE COURT: Go ahead and rephrase the

03 54 55PM 21 question, then, Ms. Polk.

03 54 58PM 22 MS. POLK: Thank you.

03 55 02PM 23 Q. Would you have gone inside Mr. Ray's

03 55 02PM 24 sweat lodge tent if you had believed your life was

03 55 05PM 25 in danger?

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03 55 06PM 1 A. No.

03 55 08PM 2 Q. There were some questions from Mr. Kelly

03 55 11PM 3 about death as a metaphor. And you agree that

03 55 18PM 4 death was used as a metaphor by Mr. Ray throughout

03 55 22PM 5 the week?

03 55 22PM 6 A. Yes.

03 55 23PM 7 Q. Did you understand that he was using

03 55 28PM 8 death just as a metaphor?

03 55 28PM 9 A. Yes.

03 55 29PM 10 Q. Did you ever expect to die in order to

03 55 31PM 11 experience enlightenment?

03 55 33PM 12 A. Not physically.

03 55 42PM 13 Q. And then Mr. Kelly read to you

03 55 46PM 14 some language from the briefing that you received

03 55 53PM 15 prior to go into the sweat lodge. Do you recall

03 55 54PM 16 that?

03 55 54PM 17 A. Yes.

03 55 54PM 18 Q. And it was language about if you have to

03 55 56PM 19 leave, then how to leave?

03 55 57PM 20 A. Yes.

03 55 58PM 21 Q. I want to play to you an audio clip from

03 56 06PM 22 Exhibit 734.

03 56 08PM 23 MR. KELLY: Your Honor, may we approach?

03 56 12PM 24 THE COURT: Okay. Yes. Of course.

03 56 14PM 25 Stand and stretch if you wish, ladies and

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03 56 17PM 1 gentlemen.

03 56 17PM 2 (Sidebar conference.)

03 56 31PM 3 THE COURT: Okay.

03 56 32PM 4 MR. KELLY: Judge, my concern is which

03 56 36PM 5 particular clip. Is it solely a statement made by

03 56 44PM 6 Mr. Ray? If it is, I have no objection.

03 56 47PM 7 MS. POLK: It is. And it's already been

03 56 49PM 8 admitted into evidence.

03 56 51PM 9 MR. KELLY: We have to talk. It was

03 56 54PM 10 represented where audio clips by Mr. Ray and our

03 56 58PM 11 tape has a statement from Kirby Brown on it.

03 57 01PM 12 MS. POLK: Talking two different exhibits.

03 57 04PM 13 MR. KELLY: That's all I want to be clear

03 57 08PM 14 about.

03 57 08PM 15 MS. POLK: 734 is already admitted.

03 57 10PM 16 MR. KELLY: And they're exclusively Mr. Ray's

03 57 12PM 17 statements?

03 57 13PM 18 MS. POLK: Yes. They're the same ones

03 57 15PM 19 admitted yesterday. Let me just clarify. These

03 57 22PM 20 are the clips played in my opening. To the extent

03 57 24PM 21 there were statements by other people -- for

03 57 27PM 22 example, there was the one witness who said should

03 57 29PM 23 we sleep, and then there was a response. But it's

03 57 33PM 24 all been admitted.

03 57 37PM 25 MR. KELLY: It was admitted but agreed it

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03 57 40PM 1 would not be played with this witness. That was
 03 57 42PM 2 exactly what happened yesterday. My point right
 03 57 45PM 3 now is if the exhibit, what was represented it was,
 03 57 48PM 4 Mr. Ray's statements are clearly admissible. We
 03 57 51PM 5 argued whether the complete transcript could be
 03 57 54PM 6 admitted. You made your ruling.
 03 57 58PM 7 My concern is this: If there are
 03 58 00PM 8 statements from other people on Exhibit 734 and
 03 58 04PM 9 it's not admissible, it would be error. If it's
 03 58 07PM 10 simply something like can we sleep, I don't have a
 03 58 10PM 11 problem with that. But if it's something
 03 58 12PM 12 expansive --
 03 58 13PM 13 MS. POLK: The clip I'm going to play is only
 03 58 15PM 14 Mr. Ray's words.
 03 58 18PM 15 MR. KELLY: That's fine. Thank you.
 03 58 20PM 16 THE COURT: Okay.
 03 58 21PM 17 Ms. Polk, anything else?
 03 58 22PM 18 MS. POLK: No.
 03 58 23PM 19 THE COURT: Thank you.
 03 58 38PM 20 (End of sidebar conference.)
 03 58 38PM 21 (Exhibit 734 played.)
 03 59 50PM 22 Q. BY MS. POLK: I'm sorry. That is the
 03 59 51PM 23 wrong clip. To focus your attention, you were
 04 00 06PM 24 asked questions by Mr. Kelly about this briefing
 04 00 10PM 25 that occurred shortly before you and others entered
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04 00 13PM 1 the sweat lodge on October 8th. Do you recall
 04 00 14PM 2 that?
 04 00 14PM 3 A. Yes.
 04 00 14PM 4 Q. And then you were asked some questions by
 04 00 18PM 5 him about if you have to leave, then this is how
 04 00 21PM 6 you leave. Do you recall that?
 04 00 22PM 7 A. Yes.
 04 00 22PM 8 Q. I want to play you this clip, and then I
 04 00 25PM 9 have a question for you after I play you the clip.
 04 00 33PM 10 (Exhibit 734 played.)
 04 01 32PM 11 Q. BY MS. POLK: Do you recall those words
 04 01 34PM 12 from Mr. Ray shortly before you entered the sweat
 04 01 36PM 13 lodge structure?
 04 01 37PM 14 A. I do.
 04 01 38PM 15 Q. What did entering that sweat lodge with a
 04 01 41PM 16 steely determination and a commitment to show
 04 01 43PM 17 yourself and the universe -- what did that mean to
 04 01 47PM 18 you?
 04 01 47PM 19 A. Not to give up lightly.
 04 01 50PM 20 Q. Not to give up what lightly?
 04 01 54PM 21 A. Not to give up on yourself or the
 04 02 03PM 22 experience lightly.
 04 02 03PM 23 Q. The experience inside this sweat lodge
 04 02 05PM 24 structure?
 04 02 08PM 25 A. Yes.
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04 02 14PM 1 Q. You were asked some questions from
 04 02 17PM 2 Mr. Kelly about coming out and being hosed off. Do
 04 02 22PM 3 you know where the hose was coming from that you
 04 02 24PM 4 were hosed off with?
 04 02 26PM 5 A. I don't know where it was connected to
 04 02 28PM 6 except a water source.
 04 02 30PM 7 Q. And when you were hosed off, what
 04 02 32PM 8 direction was the water coming at you from?
 04 02 35PM 9 A. They were standing and we were sitting.
 04 02 40PM 10 Q. And what direction was the water coming
 04 02 42PM 11 at you from?
 04 02 42PM 12 A. From above.
 04 02 43PM 13 Q. Do you know how long water was run on
 04 02 48PM 14 you?
 04 02 46PM 15 A. I do not know.
 04 02 47PM 16 Q. Did you see whether other people were
 04 02 51PM 17 being hosed off?
 04 02 53PM 18 A. Yes, I did.
 04 02 54PM 19 Q. And then Mr. Kelly asked you a question
 04 03 13PM 20 and used the words -- he was asking you about James
 04 03 15PM 21 Shore dragging another participant. And then he
 04 03 18PM 22 used the words that James Shore left and then came
 04 03 21PM 23 back in. Do you know if James Shore left the sweat
 04 03 26PM 24 lodge?
 04 03 26PM 25 A. I'm not 100 percent sure if he stayed out
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04 03 30PM 1 once he helped people or -- or not.
 04 03 33PM 2 Q. What are you 100 percent sure of?
 04 03 37PM 3 A. My actions.
 04 03 39PM 4 Q. Okay. And with respect to James Shore,
 04 03 41PM 5 did you see him at some point go past you with
 04 03 44PM 6 somebody?
 04 03 44PM 7 A. I believe so.
 04 03 45PM 8 Q. What do you remember seeing?
 04 03 47PM 9 A. I remember seeing several men helping
 04 03 51PM 10 drag unconscious people out right in front of me.
 04 03 57PM 11 But I could not say who helped who except that
 04 03 59PM 12 everyone was pitching in and helping. And it was
 04 04 02PM 13 the guys who were doing it. They were protecting
 04 04 08PM 14 everyone, especially the women.
 04 04 11PM 15 Q. Did you see James Shore do it? Was he
 04 04 16PM 16 one of those men?
 04 04 17PM 17 A. I believe so. I don't know 100 percent.
 04 04 19PM 18 Q. What makes you think that he came back in
 04 04 21PM 19 or stayed in the sweat lodge?
 04 04 23PM 20 A. I believe he stayed in because he didn't
 04 04 33PM 21 survive. And I assumed it's because he stayed in
 04 04 37PM 22 the full time.
 04 04 38PM 23 Q. At the end of the ceremony, then,
 04 04 43PM 24 Ms. Phillips, when you have tried to describe for
 04 04 46PM 25 us where people were, were you assuming that James
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04 04 51PM 1 Shore was in that position on the exhibit that you
 04 04 53PM 2 illustrated for us?
 04 04 54PM 3 **A. Yes, I was.**
 04 04 55PM 4 **Q.** Tell the jury when is the last time you
 04 05 00PM 5 were consciously aware of James Shore.
 04 05 07PM 6 **A. When he made a sharing and a speech in**
 04 05 11PM 7 **the Crystal Hall and then to see him in the sweat**
 04 05 14PM 8 **lodge at the beginning.**
 04 05 23PM 9 **Q.** Okay. You were questioned by Mr. Kelly
 04 05 26PM 10 about the voice that called out, she's fine, when
 04 05 28PM 11 you expressed concern about Kirby.
 04 05 28PM 12 **A. Yes.**
 04 05 28PM 13 **Q.** And a couple different times Mr. Kelly
 04 05 31PM 14 said to you it came from a man right next to Kirby.
 04 05 35PM 15 Is that true?
 04 05 36PM 16 **A. I thought it came from somebody next to**
 04 05 41PM 17 **her.**
 04 05 45PM 18 **Q.** Right next to her or in the area?
 04 05 47PM 19 **A. I am not sure.**
 04 05 56PM 20 **Q.** You made the statement to Mr. Kelly that
 04 06 03PM 21 Mark Rock was going in and out of lucidity, and
 04 06 06PM 22 then you said we all had been going in and out of
 04 06 09PM 23 lucidity.
 04 06 09PM 24 **A. Yes.**
 04 06 10PM 25 **Q.** Who is "we"?
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04 06 11PM 1 **A. We, the participants.**
 04 06 13PM 2 **Q.** And you also?
 04 06 13PM 3 **A. I believe I must have.**
 04 06 19PM 4 **Q.** You were asked several questions from
 04 06 23PM 5 Mr. Kelly about making choices. If you are out of
 04 06 26PM 6 lucidity, not in lucidity, can you make a choice?
 04 06 30PM 7 **MR. KELLY: Objection, Your Honor.**
 04 06 33PM 8 **THE COURT: Overruled.**
 04 06 34PM 9 **You may answer it if you can.**
 04 06 38PM 10 **THE WITNESS: I don't believe you can make an**
 04 06 39PM 11 **informed decision at the time.**
 04 06 45PM 12 **Q.** BY MS. POLK: And then Mr. Kelly asked
 04 06 48PM 13 you a question about whether you recall the woman
 04 06 51PM 14 who said she had high blood pressure.
 04 06 53PM 15 **A. Yes.**
 04 06 53PM 16 **Q.** And the woman asked Mr. Ray whether --
 04 06 56PM 17 what did she ask Mr. Ray about her high blood
 04 06 59PM 18 pressure?
 04 06 59PM 19 **A. If I remember correctly, she said, I have**
 04 07 02PM 20 **high blood pressure. Will this raise my blood**
 04 07 05PM 21 **pressure? Need I be concerned?**
 04 07 05PM 22 **Q.** And Mr. Ray's response was?
 04 07 09PM 23 **A. You have to know your own body. I am not**
 04 07 12PM 24 **a doctor.**
 04 07 13PM 25 **Q.** Do you know if that woman was allowed
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04 07 15PM 1 inside the -- Mr. Ray's sweat lodge structure?
 04 07 18PM 2 **A. She did go in.**
 04 07 21PM 3 **Q.** And do you know what happened to her
 04 07 23PM 4 inside?
 04 07 23PM 5 **A. I don't know what happened to her inside.**
 04 07 28PM 6 **I saw her after laying down.**
 04 07 28PM 7 **Q.** And will you tell the jury what you
 04 07 32PM 8 observed about her after when you saw her.
 04 07 34PM 9 **A. She was laying down and people came and**
 04 07 39PM 10 **attended to her.**
 04 07 42PM 11 **Q.** Did you know the woman's name?
 04 07 43PM 12 **A. I did not.**
 04 07 44PM 13 **Q.** Will you describe the physical
 04 07 47PM 14 characteristics of this woman for the jury.
 04 07 49PM 15 **A. She was a larger woman.**
 04 07 52PM 16 **Q.** When you say "larger," how large do you
 04 07 55PM 17 mean?
 04 07 55PM 18 **A. Heavier. I don't know the weight.**
 04 08 05PM 19 **Q.** If you were to describe a woman of
 04 08 08PM 20 average weight, was she close to average or would
 04 08 12PM 21 she be --
 04 08 13PM 22 **A. Larger than average.**
 04 08 15PM 23 **Q.** And then when Mr. Kelly asked you the
 04 08 28PM 24 line of questioning about the woman with high blood
 04 08 32PM 25 pressure and Mr. Ray's response, Mr. Kelly said to
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04 08 35PM 1 you that Mr. Ray's response that he was not a
 04 08 37PM 2 doctor, you had to know yourself -- Mr. Kelly said
 04 08 41PM 3 to you that was consistent with the theme of the
 04 08 43PM 4 seminar of taking control, assuming risk,
 04 08 46PM 5 controlling risk, and taking responsibility.
 04 08 48PM 6 **Do you remember that question?**
 04 08 50PM 7 **A. Yes, I do.**
 04 08 51PM 8 **Q.** When you were inside Mr. Ray's sweat
 04 08 54PM 9 lodge tent, did you think if you passed out you
 04 09 00PM 10 would be left there to die?
 04 09 02PM 11 **A. No.**
 04 09 04PM 12 **Q.** Did you think only you would be
 04 09 07PM 13 responsible for yourself if something happened to
 04 09 11PM 14 you inside the sweat lodge structure?
 04 09 12PM 15 **A. No.**
 04 09 12PM 16 **Q.** And then finally you were asked some
 04 09 34PM 17 questions from Mr. Kelly, again about choices. And
 04 09 47PM 18 you told -- you mentioned to Mr. Kelly that people
 04 09 50PM 19 inside appeared to be unconscious. Do you recall
 04 09 52PM 20 that?
 04 09 52PM 21 **A. Yes.**
 04 09 55PM 22 **Q.** Were the people that you observed inside
 04 10 03PM 23 Mr. Ray's sweat lodge structure that appeared to be
 04 10 05PM 24 unconscious to you -- were they able to make a
 04 10 08PM 25 choice about getting out?
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04 10 10PM 1 MR. KELLY: Your Honor, objection.

04 10 11PM 2 THE COURT: Sustained.

04 10 14PM 3 Q. BY MS. POLK: Did you observe others

04 10 16PM 4 inside Mr. Ray's sweat lodge structure who were not

04 10 18PM 5 in a condition to make choices?

04 10 26PM 6 MR. KELLY: Your Honor, objection.

04 10 28PM 7 THE COURT: Sustained.

04 10 41PM 8 Q. BY MS. POLK: Thank you, Ms. Phillips.

04 10 42PM 9 Thank you, Your Honor. I have nothing

04 10 43PM 10 further.

04 10 44PM 11 THE COURT: Thank you, Ms. Polk.

04 10 46PM 12 All right. Ladies and gentlemen,

04 10 48PM 13 questions for this witness? Pass them down so that

04 10 50PM 14 Ms. Rybar can get them. And I'm going to see how

04 10 53PM 15 many there are. If there are a few, I'll try to

04 10 55PM 16 handle them here at sidebar. If there are a

04 10 58PM 17 number, I just find it's better to have a recess

04 11 01PM 18 and rather than have a prolonged sidebar.

04 11 22PM 19 Any other questions? Okay. I think we

04 11 25PM 20 might be able to handle it right here.

04 11 27PM 21 Counsel, please approach.

04 11 31PM 22 (Sidebar conference.)

04 11 48PM 23 THE COURT: I know I've been assured they kill

04 11 52PM 24 the mic.

04 11 54PM 25 This isn't picking up the sidebar.

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04 11 57PM 1 THE BAILIFF: No.

04 11 58PM 2 THE COURT: I've numbered the questions in the

04 12 00PM 3 lower right. I'll hand them to the attorneys to

04 12 03PM 4 review.

04 12 10PM 5 Counsel?

04 12 29PM 6 MS. POLK: Your Honor, the state has no

04 12 31PM 7 objection to the questions.

04 12 32PM 8 THE COURT: Okay. Any objection to this?

04 12 34PM 9 MR. KELLY: No objection.

04 12 36PM 10 THE COURT: There are no objections to

04 12 38PM 11 question 1. All parts will be asked.

04 12 44PM 12 The lawyers are looking at question 2.

04 12 47PM 13 Several questions.

04 12 58PM 14 MR. KELLY: Object to No. 2.

04 13 11PM 15 THE COURT: Mr. Kelly, I haven't read this.

04 13 34PM 16 What are the grounds?

04 13 35PM 17 MR. KELLY: The question is about the state of

04 13 44PM 18 mind of participants. Given the expense paid, she

04 13 48PM 19 can only answer her state of mind.

04 13 54PM 20 And the second portion I think is

04 13 58PM 21 irrelevant. Refund policy.

04 14 10PM 22 THE COURT: The first part has actually been

04 14 11PM 23 asked.

04 14 11PM 24 MS. POLK: The state has no objection to the

04 14 12PM 25 entire question. If there is an objection about

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04 14 16PM 1 her ability, then I would suggest it be rephrased

04 14 20PM 2 to be limited just to her.

04 14 22PM 3 And then with respect to the second part,

04 14 24PM 4 I do believe that the refund policy, the financial

04 14 28PM 5 investment, is relevant.

04 14 36PM 6 MR. KELLY: How would this witness have the

04 14 38PM 7 background?

04 14 39PM 8 THE COURT: We're still on 2, Mr. Kelly.

04 14 43PM 9 We are looking at 3. We dealt with

04 14 48PM 10 refund policy. And I indicated if there was

04 14 52PM 11 evidence about some evidence with regard to the

04 14 56PM 12 actual alleged victims, it could come in if it's

04 15 02PM 13 there. This is about hers. And it's that issue I

04 15 14PM 14 brought up before about somehow her state of mind.

04 15 24PM 15 MS. POLK: Judge, I'll just tell you there

04 15 27PM 16 will be other witnesses who will testify that the

04 15 29PM 17 refund policy was a factor in their decision to

04 15 33PM 18 attend Spiritual Warrior. With this witness, I

04 15 37PM 19 don't believe that it was but I'm not positive.

04 15 38PM 20 I'm not sure what her answer would be.

04 15 41PM 21 MR. KELLY: I was going to say, Judge, if I

04 15 44PM 22 recall the first portion of that question, it asks

04 15 47PM 23 about the state of mind of other participants.

04 15 51PM 24 THE COURT: Okay.

04 15 52PM 25 MR. KELLY: The second portion is about refund

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04 15 55PM 1 policy. And I don't think this witness is the

04 15 58PM 2 right witness for the second portion. She can't

04 16 00PM 3 answer about other people's state of mind.

04 16 06PM 4 MS. POLK: Which is why I suggested the first

04 16 09PM 5 part she'd be asked about her state of mind. It's

04 16 12PM 6 a fair question.

04 16 23PM 7 THE COURT: Which was really touched on. Look

04 16 26PM 8 back at my note. That was really discussed.

04 16 32PM 9 Gosh. We get into this about changing

04 16 35PM 10 juror questions. And this -- it's odd only in the

04 16 41PM 11 sense of a different procedure.

04 16 44PM 12 MS. POLK: I would suggest you ask the

04 16 48PM 13 question and then instruct her to answer based on

04 16 51PM 14 herself if you don't want to change the question.

04 16 54PM 15 THE COURT: On the first part?

04 16 56PM 16 MS. POLK: Yes.

04 17 07PM 17 THE COURT: I don't think in this context to

04 17 10PM 18 her state of mind and what goes into, whether or

04 17 13PM 19 not she is helping somebody else. I don't think it

04 17 16PM 20 relates to that issue. I don't think it goes to

04 17 19PM 21 that aspect of the state of mind of why you might

04 17 21PM 22 be following directions and letting other people do

04 17 24PM 23 what they want to do and all the things have been

04 17 27PM 24 covered. This goes into that other area.

04 17 32PM 25 It might be appropriate for the alleged

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04 17 35PM 1 victims as to why they want to stay in there.
 04 17 37PM 2 Unless someone can show me law how that would then
 04 17 40PM 3 transfer what these people felt. These people
 04 17 43PM 4 probably had all different levels of wealth -- you
 04 17 46PM 5 know -- all different kinds of motivations. I'm
 04 17 49PM 6 not going to ask to --
 04 17 53PM 7 MS. POLK: May I see it again, Judge?
 04 18 04PM 8 MR. KELLY: That's fine, Judge.
 04 18 10PM 9 MR. HUGHES: Fine by the state.
 04 18 12PM 10 THE COURT: Then 3 will be asked. No
 04 18 14PM 11 objection.
 04 18 15PM 12 Two, the defense objected. And 2 is not
 04 18 20PM 13 going to be asked. Thank you.
 04 18 44PM 14 (End of sidebar conference.)
 04 18 49PM 15 THE COURT: Ms. Phillips, I'll ask the
 04 18 51PM 16 questions. The lawyers may choose to follow up.
 04 18 54PM 17 And I will ask after each question.
 04 18 59PM 18 Did the fire tenders have to use the
 04 19 02PM 19 clockwise path at all times?
 04 19 05PM 20 THE WITNESS: Can you repeat the question,
 04 19 07PM 21 please.
 04 19 08PM 22 THE COURT: Did the fire tenders have to use
 04 19 10PM 23 the clockwise path at all times?
 04 19 14PM 24 THE WITNESS: No.
 04 19 18PM 25 Shall I explain?
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04 19 19PM 1 THE COURT: I'll ask the attorneys if they
 04 19 21PM 2 wish to follow up.
 04 19 22PM 3 Ms. Polk?
 04 19 24PM 4 MS. POLK: I do, Your Honor. Just briefly.
 04 19 24PM 5 FURTHER REDIRECT EXAMINATION
 04 19 24PM 6 BY MS. POLK:
 04 19 28PM 7 Q. Do you -- did the fire tenders ever come
 04 19 28PM 8 inside the sweat lodge structure?
 04 19 30PM 9 A. **They came in to deposit the stones, and**
 04 19 32PM 10 **they went back out again.**
 04 19 34PM 11 Q. And will you show the jury, looking at
 04 19 38PM 12 the exhibit that's up on the overhead, how they
 04 19 39PM 13 came in and where they went.
 04 19 45PM 14 Did you ever see fire tenders going
 04 19 47PM 15 anywhere else inside the structure?
 04 19 51PM 16 A. **Not to my knowledge. No.**
 04 19 52PM 17 Q. When was it that they came in to deposit
 04 19 55PM 18 the stones?
 04 19 55PM 19 A. **At the beginning of each -- at the**
 04 19 58PM 20 **beginning of the round before the tent flap was**
 04 20 00PM 21 **closed before the beginning.**
 04 20 03PM 22 Q. And at whose direction?
 04 20 03PM 23 A. **Mr. Ray.**
 04 20 05PM 24 Q. Thank you.
 04 20 09PM 25 THE COURT: Follow up, Mr. Kelly?
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04 20 11PM 1 MR. KELLY: Just briefly.
 04 20 11PM 2 RE CROSS-EXAMINATION
 04 20 11PM 3 BY MR. KELLY:
 04 20 14PM 4 Q. You didn't hear any specific
 04 20 16PM 5 conversations between my client and the fire
 04 20 20PM 6 tenders; correct?
 04 20 22PM 7 A. **No specific conversation.**
 04 20 24PM 8 Q. So you're making an assumption that
 04 20 27PM 9 they're acting at his direction; correct?
 04 20 30PM 10 A. **We had been told that he informed them**
 04 20 36PM 11 **how it would be run. And I heard him ask for so**
 04 20 41PM 12 **many rocks the first time.**
 04 20 42PM 13 Q. All right. And that's my question. So
 04 20 45PM 14 you heard him ask for --
 04 20 48PM 15 A. **Twelve rocks.**
 04 20 49PM 16 Q. The first time; correct?
 04 20 50PM 17 A. **And I don't remember how many rocks he**
 04 20 52PM 18 **asked for the subsequent rounds.**
 04 20 55PM 19 Q. Okay. And after that you didn't hear him
 04 20 57PM 20 ask for rocks. Fair statement?
 04 20 59PM 21 A. **No. I don't recall how many rocks were**
 04 21 03PM 22 **asked for.**
 04 21 06PM 23 Q. And when it refers to this as Mr. Ray's
 04 21 14PM 24 sweat lodge, it's not Mr. Ray's. It's Angel
 04 21 19PM 25 Valley's; correct?
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04 21 19PM 1 A. **Angel Valley, I believe, is the --**
 04 21 22PM 2 MS. POLK: Your Honor, this is outside the
 04 21 24PM 3 scope of the questions I think.
 04 21 24PM 4 THE COURT: Sustained.
 04 21 26PM 5 Anything else, Ms. Polk, on this
 04 21 29PM 6 question?
 04 21 29PM 7 MS. POLK: No, Your Honor.
 04 21 30PM 8 THE COURT: The next question, Ms. Phillips.
 04 21 34PM 9 Was the light inside the tent adequate for safe
 04 21 37PM 10 passage for the fire tenders to carry their shovels
 04 21 40PM 11 and such, water buckets?
 04 21 44PM 12 THE WITNESS: I believe it was. Yes.
 04 21 47PM 13 THE COURT: Follow up -- and again, if the
 04 21 49PM 14 attorneys need to see the question, feel free to
 04 21 52PM 15 come forward and get that.
 04 22 05PM 16 Any follow up?
 04 22 08PM 17 MS. POLK: Just briefly.
 04 22 09PM 18 FURTHER REDIRECT EXAMINATION
 04 22 09PM 19 BY MS. POLK:
 04 22 09PM 20 Q. Ms. Phillips, were the rocks themselves
 04 22 11PM 21 giving off any light?
 04 22 12PM 22 A. **No light. The tent flap being opened**
 04 22 20PM 23 **gave light to the pit.**
 04 22 23PM 24 Q. Thank you.
 04 22 23PM 25 THE COURT: Mr. Kelly?
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04 22 24PM 1 MR. KELLY: No questions.

04 22 31PM 2 THE COURT: If one did not successfully

04 22 32PM 3 complete the Spiritual Warrior program, i.e., sweat

04 22 37PM 4 lodge, Vision Quest, et cetera, would that person

04 22 45PM 5 be referred to as a warrior at future gatherings by

04 22 48PM 6 other attendees of Ray's seminars?

04 22 50PM 7 THE WITNESS: Yes.

04 22 51PM 8 THE COURT: Follow up.

04 22 51PM 9 Ms. Polk?

04 22 51PM 10 FURTHER REDIRECT EXAMINATION

04 23 01PM 11 BY MS. POLK:

04 23 01PM 12 Q. The term "warrior," Ms. Phillips. Was it

04 23 03PM 13 used at all of Mr. Ray's seminars?

04 23 06PM 14 A. Yes.

04 23 06PM 15 THE COURT: Mr. Kelly?

04 23 06PM 16 FURTHER RECROSS-EXAMINATION

04 23 08PM 17 BY MR. KELLY:

04 23 09PM 18 Q. Ms. Phillips, it's Spiritual Warrior;

04 23 09PM 19 correct?

04 23 13PM 20 A. Yes.

04 23 16PM 21 Q. Thank you.

04 23 17PM 22 THE COURT: Follow up?

04 23 19PM 23 MS. POLK: No, Your Honor. Thank you.

04 23 20PM 24 THE COURT: Is the term "warrior" reserved

04 23 23PM 25 only for those who successfully complete the

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04 23 26PM 1 Spiritual Warrior program?

04 23 28PM 2 THE WITNESS: No.

04 23 30PM 3 THE COURT: Follow up.

04 23 30PM 4 Ms. Polk?

04 23 30PM 5 FURTHER REDIRECT EXAMINATION

04 23 30PM 6 BY MS. POLK:

04 23 34PM 7 Q. How does one earn the title of "warrior"?

04 23 38PM 8 A. **We were put into warrior groups and**

04 23 42PM 9 **support groups at each seminar, and we were**

04 23 48PM 10 **encouraged to be in these groups. And then we**

04 23 51PM 11 **called each other "warrior."**

04 23 53PM 12 Q. Was it a term, then, that somebody had to

04 23 56PM 13 earn?

04 24 00PM 14 A. **I believe showing up and being there**

04 24 04PM 15 **constituted you being a warrior.**

04 24 04PM 16 Q. Thank you.

04 24 06PM 17 THE COURT: Mr. Kelly?

04 24 07PM 18 MR. KELLY: No. Thank you.

04 24 10PM 19 THE COURT: May Ms. Phillips be excused as a

04 24 11PM 20 witness at this time, Ms. Polk?

04 24 11PM 21 MS. POLK: Yes, Your Honor.

04 24 17PM 22 THE COURT: Mr. Kelly?

04 24 19PM 23 MR. KELLY: Judge, may we approach? I

04 24 22PM 24 apologize. It's an important issue.

04 24 22PM 25 (Sidebar conference.)

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04 24 36PM 1 MR. KELLY: My concern is if they're excused,

04 24 39PM 2 then they're excused from the admonition and any

04 24 42PM 3 interview by the press. And the reason I'm

04 24 45PM 4 concerned about that is I noticed last night a

04 24 49PM 5 fellow by the name of Tom McFee, who is a victim's

04 24 52PM 6 cousin. He's been interviewed extensively right

04 24 56PM 7 outside the courthouse every night.

04 24 59PM 8 Anyway, this lady is from Toronto but --

04 25 04PM 9 THE COURT: I think the rule of exclusion

04 25 06PM 10 continues whether the person is excused or not is

04 25 09PM 11 my view.

04 25 11PM 12 In terms of the gag order, it's been a

04 25 16PM 13 long time since I've looked at it. Unfortunately,

04 25 18PM 14 there haven't been any issues that have come up in

04 25 21PM 15 the last year plus.

04 25 24PM 16 MR. KELLY: I guess if the rule prohibits her

04 25 27PM 17 from calling somebody and talking about her

04 25 30PM 18 testimony, that's what I'm requesting. She can be

04 25 32PM 19 excused.

04 25 33PM 20 THE COURT: That's a good point. I mentioned

04 25 35PM 21 before and talked to her about not communicating on

04 25 39PM 22 the Internet anything that might be out there for

04 25 42PM 23 other witnesses to see.

04 25 43PM 24 What about specifically being

04 25 44PM 25 interviewed? Of course, if the other people are

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04 25 50PM 1 honoring staying away from the media, that's not

04 25 52PM 2 supposed to be an issue. The gag order had to do

04 25 56PM 3 with attorneys. It didn't address witnesses.

04 26 01PM 4 MS. POLK: Especially because it's being

04 26 03PM 5 broadcast live. I don't believe this is a person

04 26 05PM 6 who wants to go be interviewed by the media.

04 26 10PM 7 MR. KELLY: Being interviewed by the media

04 26 11PM 8 when it's already being broadcast live in terms of

04 26 14PM 9 its impact on witnesses is de minimus.

04 26 17PM 10 THE COURT: Right.

04 26 18PM 11 MR. KELLY: Sorry for interrupting.

04 26 21PM 12 She could start beginning to talk about

04 26 23PM 13 subjects that she can't talk about here because of

04 26 26PM 14 the Court order. Anyway --

04 26 35PM 15 THE COURT: I'm saying if the other witnesses

04 26 37PM 16 are honoring the media, this is not going to be a

04 26 41PM 17 factor, if they're honoring the ban against the

04 26 44PM 18 media. And Ms. Polk elaborates the testimony is

04 26 46PM 19 out there live. So assurance -- the danger is

04 26 50PM 20 sharing testimony. So that it lines up. That's

04 26 52PM 21 the dangerous question.

04 26 54PM 22 MR. KELLY: Is there not a related danger she

04 26 57PM 23 might come out and provide opinions about the

04 27 00PM 24 defense? the prosecution? the Court? his guilt? his

04 27 02PM 25 innocence?

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04 27 05PM 1 THE COURT: Well, I haven't been presented
 04 27 07PM 2 with a gag --
 04 27 10PM 3 MR. KELLY: Well, my request was simply that
 04 27 12PM 4 the rule continue to apply.
 04 27 14PM 5 THE COURT: And it will.
 04 27 16PM 6 MR. KELLY: That's my request.
 04 27 21PM 7 MS. POLK: The rule continues to apply to
 04 27 23PM 8 prospective witnesses.
 04 27 24PM 9 THE COURT: She -- on her end, she can't talk
 04 27 27PM 10 to prospective witnesses either.
 04 27 30PM 11 MS. POLK: They can't talk to her. She,
 04 27 32PM 12 however, can certainly start watching coverage.
 04 27 35PM 13 It's lifted from her.
 04 27 36PM 14 THE COURT: Correct. Okay. I'm just going to
 04 27 38PM 15 make sure that the rule of exclusion -- she can't
 04 27 41PM 16 do things that might end up -- you know -- giving
 04 27 45PM 17 people her testimony through the Internet or
 04 27 48PM 18 whatever.
 04 27 48PM 19 Thank you.
 04 27 50PM 20 MR. HUGHES: Your Honor, can you tell us when
 04 27 51PM 21 you'd like us to wrap up with the next witness
 04 27 53PM 22 today?
 04 27 54PM 23 THE COURT: 10 till is the 90 minutes.
 04 28 05PM 24 (End of sidebar conference.)
 04 28 05PM 25 THE COURT: The rule of exclusion is going to
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04 28 14PM 1 continue to apply. And I'll talk to Ms. Phillips
 04 28 17PM 2 about that.
 04 28 18PM 3 So this witness may be excused, then,
 04 28 19PM 4 Mr. Kelly?
 04 28 21PM 5 MR. KELLY: Yes, Judge. Thank you.
 04 28 23PM 6 THE COURT: You will be excused as a witness,
 04 28 23PM 7 Ms. Phillips. Remember that rule of exclusion of
 04 28 25PM 8 witnesses that I talked about and how important it
 04 28 26PM 9 is that you not talk to them directly and tell them
 04 28 32PM 10 what your testimony is, but that you not
 04 28 35PM 11 communicate in some fashion through somebody else
 04 28 37PM 12 who you think might be in some -- you know --
 04 28 41PM 13 electronic connection such that your testimony
 04 28 45PM 14 would be out to other witnesses.
 04 28 49PM 15 So remember that. Remember the rule of
 04 28 51PM 16 exclusion of witnesses. If you have any questions
 04 28 53PM 17 about it, you can talk to the attorneys about it.
 04 28 55PM 18 But you are excused at this time.
 04 28 56PM 19 Thank you.
 04 28 58PM 20 THE WITNESS: Thank you very much.
 04 29 15PM 21 THE COURT: Ms. Polk, you may call your next
 04 29 16PM 22 witness.
 04 29 18PM 23 MS. POLK: State calls Jennifer Haley, please.
 04 29 43PM 24 THE COURT: Ma'am, if you would please step to
 04 29 45PM 25 the front of the courtroom where the bailiff is
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04 29 47PM 1 directing you and then raise your right hand and
 04 29 50PM 2 be sworn by the clerk.
 04 29 54PM 3 JENNIFER HALEY,
 04 29 54PM 4 having been first duly sworn upon her oath to tell
 04 29 54PM 5 the truth, the whole truth, and nothing but the
 04 30 03PM 6 truth, testified as follows:
 04 30 03PM 7 THE COURT: Please be seated here to my right
 04 30 06PM 8 at the witness stand.
 04 30 20PM 9 Please begin by stating and spelling your
 04 30 24PM 10 full name.
 04 30 24PM 11 THE WITNESS: Jennifer Haley, J-e-n-n-i-f-e-r,
 04 30 29PM 12 H-a-l-e-y.
 04 30 32PM 13 THE COURT: Thank you.
 04 30 33PM 14 Ms. Polk?
 04 30 33PM 15 MS. POLK: Thank you, Your Honor.
 04 30 33PM 16 DIRECT EXAMINATION
 04 30 33PM 17 BY MS. POLK:
 04 30 35PM 18 Q. Good afternoon, Ms. Haley.
 04 30 37PM 19 A. Hello.
 04 30 38PM 20 Q. Will you tell the jury what community you
 04 30 41PM 21 live in.
 04 30 41PM 22 A. Ventura County, Oak Park, California.
 04 30 45PM 23 Q. And are you employed there?
 04 30 46PM 24 A. Self-employed.
 04 30 47PM 25 Q. As what?
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04 30 48PM 1 A. Hair stylist.
 04 30 49PM 2 Q. How long have you been self-employed?
 04 30 52PM 3 A. About 18 years.
 04 30 53PM 4 Q. Can I ask how old you are.
 04 30 55PM 5 A. 46.
 04 30 57PM 6 Q. Do you know somebody named James Ray?
 04 31 02PM 7 A. Yes.
 04 31 02PM 8 Q. And do you see him here in the courtroom?
 04 31 04PM 9 A. Yes.
 04 31 04PM 10 Q. And will you describe him for us.
 04 31 06PM 11 A. What he looks like?
 04 31 08PM 12 Q. Well, can you identify him for us.
 04 31 10PM 13 A. He is right over there.
 04 31 12PM 14 Q. And there's several men there.
 04 31 14PM 15 A. Okay. The one in the blue jacket, white
 04 31 17PM 16 shirt, no tie.
 04 31 19PM 17 Q. Thank you.
 04 31 19PM 18 Your Honor, can the record reflect that
 04 31 21PM 19 the witness has identified Mr. Ray, the defendant?
 04 31 23PM 20 THE COURT: Yes, it will.
 04 31 26PM 21 Q. BY MS. POLK: How did you meet Mr. Ray?
 04 31 28PM 22 A. I had a friend that invited me to a
 04 31 32PM 23 seminar for free. She had two for one, so she paid
 04 31 37PM 24 for her ticket. She got somebody that could go for
 04 31 40PM 25 free and so she invited me to go.
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04 31 42PM 1 Q. Do you recall when that was?
 04 31 43PM 2 A. **It was around '95, February '95 or '96.**
 04 32 01PM 3 **'96.**
 04 32 04PM 4 Q. Did you go to the seminar?
 04 32 06PM 5 A. **Yes.**
 04 32 08PM 6 Q. Do you recall the name of the seminar?
 04 32 09PM 7 A. **It was Harmonic Wealth.**
 04 32 07PM 8 Q. Where was it?
 04 32 09PM 9 A. **It was in New York.**
 04 32 10PM 10 Q. Is that where you first met Mr. Ray?
 04 32 13PM 11 A. **It was -- wasn't '97, was it? Let me**
 04 32 20PM 12 **correct that because it was five years ago that I**
 04 32 28PM 13 **first met Ray in New York. Harmonic Wealth. So**
 04 32 36PM 14 **2006.**
 04 32 38PM 15 Q. Okay. 2006. At the time that you met
 04 32 41PM 16 Mr. Ray, were you self-employed as a hair stylist?
 04 32 44PM 17 A. **Yes.**
 04 32 45PM 18 Q. Did you own a home?
 04 32 47PM 19 A. **No.**
 04 32 51PM 20 Q. And -- go ahead.
 04 32 54PM 21 A. **No. I had just sold one.**
 04 32 58PM 22 Q. Are you a mother?
 04 32 59PM 23 A. **Yes.**
 04 33 00PM 24 Q. What do you have? What children do you
 04 33 04PM 25 have?

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04 33 04PM 1 A. **I have twin nine-year-old boys that I**
 04 33 08PM 2 **take care of by myself, and I have two adult**
 04 33 11PM 3 **children.**
 04 33 12PM 4 Q. In 2006 when you met Mr. Ray, how old
 04 33 14PM 5 were your twin boys?
 04 33 16PM 6 A. **They were 5 -- 4.**
 04 33 21PM 7 Q. The Harmonic Wealth seminar that you
 04 33 25PM 8 attended --
 04 33 26PM 9 A. **Yes?**
 04 33 28PM 10 Q. Over what period of time did that occur?
 04 33 32PM 11 How many days was it?
 04 33 33PM 12 A. **It was two days.**
 04 33 34PM 13 Q. When you left that event -- after you
 04 33 37PM 14 participated in that event, did you have further
 04 33 40PM 15 contact with Mr. Ray?
 04 33 42PM 16 A. **Yes. I had signed up for a few events.**
 04 33 45PM 17 Q. What else did you attend? What other
 04 33 48PM 18 seminars by Mr. Ray did you attend?
 04 33 50PM 19 A. **Every single one he's had except for one.**
 04 33 55PM 20 **I attended Modern Magic, Harmonic Wealth, Practical**
 04 34 04PM 21 **Mysticism, financial one, the Sedona Spiritual**
 04 34 20PM 22 **Warrior. Those are the ones I remember right now.**
 04 34 22PM 23 Q. Do you remember how many seminars total
 04 34 23PM 24 you attended?
 04 34 23PM 25 A. **I believe six.**

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04 34 27PM 1 Q. Did each one of these seminars cost
 04 34 31PM 2 money?
 04 34 31PM 3 A. **The first one I got for free.**
 04 34 36PM 4 Q. Did you attend Spiritual Warrior 2009?
 04 34 41PM 5 A. **Yes. As a Dream Team member.**
 04 34 44PM 6 Q. And had you attended a previous Spiritual
 04 34 47PM 7 Warrior seminar by Mr. Ray?
 04 34 48PM 8 A. **Yes. 2007 I was a participant. I went**
 04 34 54PM 9 **to six different seminars that I paid for. But**
 04 34 57PM 10 **I've been at more seminars than that.**
 04 34 59PM 11 Q. How is that?
 04 35 00PM 12 A. **Because I dream teamed two of them, come**
 04 35 04PM 13 **to think of it, and I did -- Modern Magic. I did**
 04 35 08PM 14 **three or four times. So that's -- I've done about**
 04 35 18PM 15 **ten seminars all together. But I was thinking**
 04 35 18PM 16 **about the ones that I had paid for. Well, I paid**
 04 35 20PM 17 **for those too. I was just thinking about how many**
 04 35 24PM 18 **all together was there, but I did go to certain**
 04 35 26PM 19 **events more than once.**
 04 35 27PM 20 Q. Between 2006 and 2011, then, how many
 04 35 32PM 21 different times did you go to a seminar by Mr. Ray
 04 35 38PM 22 in any capacity?
 04 35 38PM 23 A. **Okay. Let's just do the first year --**
 04 35 39PM 24 **the first year?**
 04 35 40PM 25 Q. Okay.

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04 35 41PM 1 A. **I paid for all the events that he offered**
 04 35 46PM 2 **that year. So I did all of them within 11 months.**
 04 35 54PM 3 Q. Do you know what the World Wealth Society
 04 35 58PM 4 is?
 04 35 59PM 5 A. **Yes.**
 04 36 00PM 6 Q. Tell the jury what the World Wealth
 04 36 03PM 7 Society is.
 04 36 05PM 8 MS. DO: Objection, Your Honor. Relevance.
 04 36 07PM 9 THE COURT: Sustained.
 04 36 08PM 10 Q. BY MS. POLK: How is it that you know of
 04 36 12PM 11 the World Wealth Society?
 04 36 12PM 12 MS. DO: Same objection, Your Honor.
 04 36 15PM 13 THE COURT: Sustained.
 04 36 27PM 14 Q. BY MS. POLK: You've talked about dream
 04 36 29PM 15 teaming. Tell the jury what a Dream Team person
 04 36 32PM 16 is.
 04 36 34PM 17 A. **It's a volunteer that is working for**
 04 36 38PM 18 **James Ray to help enforce his seminar and to help**
 04 36 43PM 19 **teach.**
 04 36 44PM 20 Q. How did you become a Dream Team member?
 04 36 48PM 21 A. **I got a letter asking me to apply. And**
 04 36 51PM 22 **you needed to do the seminar in order to apply.**
 04 36 55PM 23 **But you have write an essay and then get chosen.**
 04 37 01PM 24 Q. Who sent you a letter asking you to apply
 04 37 04PM 25 to be a Dream Team member?

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04 37 06PM 1 **A. James Ray International. I don't**
 04 37 09PM 2 **remember who signed it.**
 04 37 09PM 3 **Q. Was that letter asking you to apply to be**
 04 37 11PM 4 **a Dream Team member for a specific seminar?**
 04 37 11PM 5 **A. For the Sedona Spiritual Warrior of 2009.**
 04 37 21PM 6 **Q. Do you recall approximately when it was**
 04 37 23PM 7 **that you got the letter asking you to apply?**
 04 37 25PM 8 **A. I probably got it, I'm going to guess,**
 04 37 31PM 9 **two or three months prior -- three months prior to**
 04 37 36PM 10 **it.**
 04 37 37PM 11 **Q. Before you were a Dream Team member for**
 04 37 41PM 12 **Spiritual Warrior 2009 in Sedona, were you a Dream**
 04 37 44PM 13 **Team member for other events?**
 04 37 45PM 14 **A. One. Harmonic Wealth. And it had been a**
 04 37 52PM 15 **few months prior to -- a couple months prior to**
 04 37 53PM 16 **that.**
 04 37 55PM 17 **Q. You just testified that you received a**
 04 37 57PM 18 **letter asking you to apply. Did you then apply?**
 04 38 00PM 19 **A. Yes.**
 04 38 02PM 20 **Q. And you said that you had -- what did**
 04 38 05PM 21 **that application consist of?**
 04 38 08PM 22 **A. What I had gotten out of the seminar,**
 04 38 13PM 23 **what things in my life had changed because of it,**
 04 38 16PM 24 **why I thought that they should choose me, and how I**
 04 38 21PM 25 **thought I would benefit from that seminar. And**

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04 38 27PM 1 **that was a really hard one for me to do because I**
 04 38 30PM 2 **didn't want to go.**
 04 38 32PM 3 **Q. Because you --**
 04 38 33PM 4 **A. I didn't want to go. I didn't believe in**
 04 38 36PM 5 **that seminar.**
 04 38 37PM 6 **Q. But you applied?**
 04 38 38PM 7 **A. I applied because I had been taught dream**
 04 38 41PM 8 **analysis and I had been doing it. And I felt**
 04 38 43PM 9 **divinely guided to go, although I didn't**
 04 38 47PM 10 **particularly believe in that one seminar.**
 04 38 50PM 11 **When I wrote my essay, I did say the**
 04 38 53PM 12 **things that had changed in my life, but I couldn't**
 04 38 58PM 13 **say which seminar did what because I'd done them**
 04 39 01PM 14 **all.**
 04 39 02PM 15 **Q. Do you know who reviewed your application**
 04 39 04PM 16 **to be a Dream Team member for Spiritual Warrior?**
 04 39 07PM 17 **A. I have no idea.**
 04 39 08PM 18 **Q. How did you learn that you had been**
 04 39 10PM 19 **selected to be a Dream Team member?**
 04 39 12PM 20 **A. They called me.**
 04 39 13PM 21 **Q. Do you know who called you?**
 04 39 18PM 22 **A. No.**
 04 39 24PM 23 **Q. You testified that you were a Dream Team**
 04 39 27PM 24 **member for Harmonic Wealth. Did you ever receive**
 04 39 27PM 25 **training to be a Dream Team member?**

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04 39 30PM 1 **A. They do some small training at the event**
 04 39 34PM 2 **when you get there. You get there a day early.**
 04 39 36PM 3 **Sedona was different. I believe we got there two,**
 04 39 40PM 4 **three days early on that one.**
 04 39 45PM 5 **Q. Let's talk about your training to be a**
 04 39 47PM 6 **Dream Team member for the Sedona Spiritual**
 04 39 49PM 7 **Warrior 2009 event. Do you recall when it was that**
 04 39 53PM 8 **you arrived from California to Sedona?**
 04 39 58PM 9 **A. October 1st, I believe. Or was that when**
 04 40 01PM 10 **we left? October 1st.**
 04 40 05PM 11 **Q. Do you recall what day of the week that**
 04 40 06PM 12 **was?**
 04 40 08PM 13 **A. No.**
 04 40 07PM 14 **Q. I'm going to just put up on the overhead**
 04 40 09PM 15 **an exhibit. Perhaps that will help refresh your**
 04 40 15PM 16 **recollection. This is Exhibit 137.**
 04 40 22PM 17 **MS. DO: Ms. Polk, may I see it?**
 04 40 28PM 18 **MS. POLK: This is already admitted. 137.**
 04 40 31PM 19 **MS. DO: Thank you.**
 04 40 33PM 20 **Q. BY MS. POLK: And looking at this**
 04 40 34PM 21 **exhibit, Ms. Haley, you can see that Saturday was**
 04 40 37PM 22 **October 3rd. Does that help you remember what day**
 04 40 45PM 23 **you as a Dream Team member arrived in Sedona?**
 04 40 51PM 24 **A. Yes. The 1st, two days before**
 04 40 55PM 25 **registration.**

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04 40 57PM 1 **Q. How did you get from California to**
 04 40 59PM 2 **Sedona, Arizona?**
 04 41 00PM 3 **A. I drove.**
 04 41 02PM 4 **Q. Where were Dream Team members housed?**
 04 41 08PM 5 **Where did you sleep when you arrived?**
 04 41 11PM 6 **A. At Angel Valley.**
 04 41 13PM 7 **Q. Yeah. Where at Angel Valley were you**
 04 41 15PM 8 **housed?**
 04 41 17PM 9 **A. What room -- well, in a room. I had a**
 04 41 21PM 10 **room with two other women.**
 04 41 25PM 11 **Q. Were they also Dream Team members?**
 04 41 27PM 12 **A. Yes.**
 04 41 28PM 13 **Q. And then on October 1st when you arrived,**
 04 41 31PM 14 **what did you do first?**
 04 41 33PM 15 **A. We just got our stuff in the room and**
 04 41 36PM 16 **said hello to each other really.**
 04 41 39PM 17 **Q. Did any group activities or any training**
 04 41 41PM 18 **occur on October 1st?**
 04 41 43PM 19 **A. No training.**
 04 41 45PM 20 **Q. On October 2nd, then, did you receive any**
 04 41 48PM 21 **training as a Dream Team member?**
 04 41 50PM 22 **A. We definitely talked about what was going**
 04 41 54PM 23 **to go on.**
 04 41 55PM 24 **Q. Who was leading the training?**
 04 41 57PM 25 **A. Megan and Josh. And we had some time**

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04 42 01PM 1 with James too.

04 42 04PM 2 Q. Let's use some last names.

04 42 06PM 3 A. Megan Fredrick -- Fredrickson and Josh

04 42 08PM 4 Fredrickson.

04 42 10PM 5 Q. Are Josh and Megan Fredrickson related to

04 42 12PM 6 each other?

04 42 14PM 7 A. They're husband and wife. And we had

04 42 16PM 8 dinner -- the dream team. We had dinner with them.

04 42 18PM 9 And maybe that was the first night. It was a

04 42 20PM 10 little over a year ago, so I know the two days

04 42 22PM 11 before it started we had a dinner with Megan and

04 42 24PM 12 Josh and then just letting us know that they were

04 42 26PM 13 glad that we were there and why were we there.

04 42 28PM 14 And then the next day we got James Ray in

04 42 30PM 15 a small room at Angel Valley -- who wanted to say a

04 42 32PM 16 little bit. And he wanted us to go around and say

04 42 34PM 17 why we were there and what our intention was.

04 42 36PM 18 Q. And let me stop you there. I want to

04 42 38PM 19 back -- slow you down a little bit.

04 42 40PM 20 A. Okay.

04 42 42PM 21 Q. Ask you a couple questions about Megan

04 42 44PM 22 and Josh Fredrickson. What was their relationship

04 42 46PM 23 to Mr. Ray or to James Ray International? Do you

04 42 48PM 24 know?

04 42 50PM 25 A. Their label? They were transformational

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04 43 01PM 1 specialists. I know Josh's was technical support.

04 43 03PM 2 Q. Were they employees?

04 43 05PM 3 A. They were definitely employees. And they

04 43 07PM 4 seemed to be his right hand. But I don't know

04 43 09PM 5 exactly what their titles were except that they

04 43 11PM 6 were transformational specialists.

04 43 13PM 7 And Josh dealt with all the computer and

04 43 15PM 8 technical stuff and Megan dealt with the people.

04 43 17PM 9 Q. You used a term --

04 43 19PM 10 A. Coordinator.

04 43 21PM 11 Q. -- transformational specialist. Where

04 43 23PM 12 did you hear that term?

04 43 25PM 13 A. In the seminars.

04 43 27PM 14 Q. Do you know what that means?

04 43 29PM 15 A. That they specialize in helping people

04 43 31PM 16 have insights and transforming their lives.

04 43 33PM 17 Q. Working for Mr. Ray?

04 43 35PM 18 A. That's how they were -- that was the

04 43 37PM 19 vehicle they were using.

04 43 39PM 20 Q. Did Mr. Ray have other employees at the

04 43 41PM 21 Spiritual Warrior 2009 seminar?

04 43 43PM 22 A. I don't know. I know that there was

04 43 45PM 23 another man that was working for him. But we were

04 43 47PM 24 all working for him and we weren't employees. It

04 43 49PM 25 cost me \$2,000 to stay there, and I was working for

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04 44 01PM 1 him so -- I know Josh and Megan got paid.

04 44 03PM 2 Q. Well, that's what I want to draw, that

04 44 05PM 3 distinction. Who was an employee getting paid by

04 44 07PM 4 Mr. Ray. Do you know?

04 44 09PM 5 A. I know Josh and Megan were. I don't know

04 44 11PM 6 anyone else.

04 44 13PM 7 Q. Do you know someone named Melinda Martin?

04 44 15PM 8 A. Okay. She was getting paid too. Yes. I

04 44 17PM 9 forgot about her.

04 44 19PM 10 Q. As a Dream Team member, you just

04 44 21PM 11 testified you were not getting paid?

04 44 23PM 12 A. No. It was costing me.

04 44 25PM 13 Q. Why did it cost -- how much did it cost

04 44 27PM 14 you?

04 44 29PM 15 A. Well, it cost me about \$2,000 for the --

04 44 31PM 16 Angel Valley to stay and the food that was there.

04 44 33PM 17 And it cost me my own transportation, and it cost

04 44 35PM 18 me a baby-sitter, and it cost me time off work.

04 44 37PM 19 Q. How many Dream Team members were present

04 44 39PM 20 for Spiritual Warrior 2009?

04 44 41PM 21 A. I believe seven, maybe eight.

04 44 43PM 22 Q. Can you tell the jury the names.

04 44 45PM 23 A. Mike Rock, Aaron -- don't know his last

04 44 47PM 24 name -- Chris Jobe.

04 44 49PM 25 Q. Let me interrupt you. Is Chris Jobe male

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04 46 01PM 1 or female?

04 46 03PM 2 A. Female. Christine Jobe, Barbara -- don't

04 46 05PM 3 know what her last name is -- Liz Neuman, and Marta

04 46 07PM 4 Marta Reis, I think, is her last name. It's close

04 46 09PM 5 to that. Marta.

04 46 11PM 6 Q. Was there a person named Lisa?

04 46 13PM 7 A. And Lisa.

04 46 15PM 8 Q. Do you know Lisa's last name?

04 46 17PM 9 A. No, I don't. But she was -- I bunked

04 46 19PM 10 with her. So I roomed with her in Sedona.

04 46 21PM 11 Q. Did you know any of these Dream Team

04 46 23PM 12 members before you arrived?

04 46 25PM 13 A. Yes.

04 46 27PM 14 Q. Which ones did you know?

04 46 29PM 15 A. I knew Liz. I knew Aaron. I knew

04 46 31PM 16 Barbara. I had seen Lisa. I didn't know her

04 46 33PM 17 really well. I knew Marta. So I knew -- the only

04 46 35PM 18 ones I didn't know were Mark Rock. Really

04 46 37PM 19 everybody else --

04 46 39PM 20 Q. How did you know Liz Neuman?

04 46 41PM 21 A. Seeing her at every seminar I'd ever been

04 46 43PM 22 at.

04 46 45PM 23 Q. You told us you believe you were -- you

04 46 47PM 24 went to 11 different seminars?

04 46 49PM 25 A. At least.

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04 47 28PM 1 Q. Did you see Liz Neuman at 11 seminars?

04 47 32PM 2 A. Close to it. I don't remember one that

04 47 35PM 3 she wasn't there.

04 47 37PM 4 Q. Would you consider yourself a friend of

04 47 40PM 5 Liz's?

04 47 49PM 6 A. No. I liked her, but we just -- we got

04 47 52PM 7 friendly during teaching together at Sedona. I

04 47 55PM 8 knew her. I respected her. But we didn't have

04 47 58PM 9 each other's phone numbers. We didn't call each

04 48 01PM 10 other. But I looked up to her and admired her a

04 48 07PM 11 lot. But I can't say we were friends. She

04 48 08PM 12 didn't know enough about me.

04 48 11PM 13 Q. Do you know whether Liz Neuman had been a

04 48 13PM 14 Dream Team member at other events?

04 48 19PM 15 A. She had done Sedona every year. She had

04 48 19PM 16 done Spiritual Warrior, from what I knew, every

04 48 21PM 17 year from when it started.

04 48 23PM 18 Q. How many previous times had you been to

04 48 26PM 19 Sedona, Arizona, for a James Ray seminar?

04 48 29PM 20 A. I did one other Spiritual Warrior that I

04 48 37PM 21 was a participant.

04 48 38PM 22 THE COURT: It's that time.

04 48 39PM 23 MS. POLK: Thank you.

04 48 43PM 24 THE COURT: We'll go ahead and recess for the

04 48 43PM 25 evening.

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04 48 44PM 1 And before I do that, Ms. Haley, I want

04 48 46PM 2 to remind you about the rule of exclusion of

04 48 49PM 3 witnesses. I think you -- you've heard about that,

04 48 50PM 4 but I'll explain it to you a little more.

04 48 52PM 5 It really means you just can't

04 48 55PM 6 communicate with other witnesses about your

04 48 56PM 7 testimony until the trial is completely over. When

04 48 59PM 8 I say "communicate," I mean in any way, directly

04 49 03PM 9 face to face, through somebody else, telephone, and

04 49 06PM 10 in this day and age by -- you know --

04 49 08PM 11 electronically communicating with people on these

04 49 11PM 12 various things you can do now.

04 49 13PM 13 Just avoid that so that no other witness

04 49 15PM 14 would somehow be exposed to your testimony. You --

04 49 18PM 15 you can't discuss the case with them until it's

04 49 21PM 16 over, if you choose to do that. You can talk to

04 49 24PM 17 the lawyers, though. That's okay as long as other

04 49 27PM 18 witnesses are not present. Okay?

04 49 30PM 19 THE WITNESS: Got it.

04 49 31PM 20 THE COURT: Thank you.

04 49 31PM 21 And then the jury, I will excuse you.

04 49 35PM 22 And please remember the admonition. Don't talk to

04 49 37PM 23 anyone about the case. Don't let anyone talk to

04 49 40PM 24 you about it. Keep an open mind about the case.

04 49 40PM 25 Please report tomorrow at 9:15. And we'll see you

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04 49 46PM 1 then.

04 49 48PM 2 And, Ms. Haley and the jury, you are now

04 49 50PM 3 excused.

04 49 51PM 4 I'm going to ask the parties to remain

04 49 52PM 5 just a few minutes. Thank you.

04 49 52PM 6 (Proceedings continued outside presence

04 50 30PM 7 of jury.)

04 50 30PM 8 THE COURT: I'll note that the jury has left.

04 50 32PM 9 Also the witness has also left. I just want to

04 50 36PM 10 bring up a couple of things that relate to the

04 50 39PM 11 case.

04 50 40PM 12 First, the media has requested exhibits.

04 50 43PM 13 And I've indicated before it was my policy that

04 50 46PM 14 once an exhibit is admitted, it's, basically, the

04 50 50PM 15 record and they can be obtained. So there's some

04 50 55PM 16 mechanical issues as to that. I don't get involved

04 50 58PM 17 unless it comes up. I just want to make sure that

04 51 01PM 18 both sides are aware that -- that exhibits will now

04 51 04PM 19 be obtained, the ones that are -- are actually

04 51 08PM 20 admitted.

04 51 08PM 21 I want to ask, again, the attorneys -- I

04 51 12PM 22 guess my JA has asked this. But I'm asking the

04 51 15PM 23 attorneys to consider providing a witness list -- I

04 51 19PM 24 see there's been a revised witness list -- provide

04 51 22PM 25 that witness list to the media for purposes of

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04 51 26PM 1 planning, if that's at all possible.

04 51 30PM 2 I have made a request through court

04 51 33PM 3 administration that media representatives perhaps

04 51 37PM 4 let you know -- you know -- through my JA or it'll

04 51 42PM 5 get to you -- let us know if there's a particular

04 51 45PM 6 interest in some facet of the case perhaps or

04 51 50PM 7 perhaps certain witnesses, maybe that would help.

04 51 53PM 8 And if there's some way they can get a -- some idea

04 51 58PM 9 of scheduling that -- I think that's really what

04 52 00PM 10 they're seeking.

04 52 02PM 11 So please consider that. And we can

04 52 03PM 12 discuss that in a pretrial context tomorrow or

04 52 08PM 13 later just informally.

04 52 11PM 14 It doesn't -- it doesn't really relate to

04 52 13PM 15 the case directly. So if you want to just discuss

04 52 15PM 16 that with me informally, we can do that in my

04 52 18PM 17 office.

04 52 20PM 18 Ms. Polk, did you have anything else you

04 52 22PM 19 wanted to take up this evening?

04 52 23PM 20 MS. POLK: No, Your Honor. Thank you.

04 52 25PM 21 THE COURT: Ms. Do, do you have anything?

04 52 28PM 22 MS. DO: I do have something, Your Honor. And

04 52 31PM 23 I'll just give the Court a heads up and just let

04 52 33PM 24 you decide to deal with it today or tomorrow. But

04 52 33PM 25 with respect to this witness, Jennifer Haley, we

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04 52 37PM 1 were handed a CD at a break earlier marked
 04 52 41PM 2 Exhibit 735.
 04 52 43PM 3 Ms. Polk indicated that she was going to
 04 52 45PM 4 play this excerpt, which came from the 2009
 04 52 47PM 5 Spiritual Warrior audio recordings during
 04 52 52PM 6 Ms. Haley's testimony. This excerpt -- I listened
 04 52 56PM 7 to it during the break -- is the exact excerpt that
 04 52 58PM 8 this court ruled inadmissible in its ruling on the
 04 53 03PM 9 defendant's motion to exclude audio recordings of
 04 53 05PM 10 the 2009 Spiritual Warrior seminar events dated
 04 53 08PM 11 February 28.

04 53 10PM 12 So we -- we're not sure what the state
 04 53 14PM 13 intends. But based upon what I listened to, it's
 04 53 17PM 14 the exact excerpt the Court has ruled inadmissible.

04 53 21PM 15 THE COURT: I recall generally the excerpt.
 04 53 23PM 16 And if I could see it again, I think it had to do
 04 53 25PM 17 specifically with Ms. Brown --

04 53 25PM 18 MS. DO: Yes.

04 53 25PM 19 May I approach?

04 53 27PM 20 THE COURT: -- and what she had related in a
 04 53 28PM 21 context.

04 53 30PM 22 Please. Thank you, Ms. Do.

04 53 30PM 23 But I had just --

04 53 35PM 24 Ms. Polk, before I say anything about
 04 53 38PM 25 that.

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04 53 38PM 1 MS. POLK: Your Honor, I am not aware of any
 04 53 40PM 2 minute entry that specifically ruled that excerpts
 04 53 44PM 3 were inadmissible. There was the minute entry from
 04 53 47PM 4 the Court about the audio recording and generally
 04 53 50PM 5 that it was admissible.

04 53 51PM 6 And in the minute entry, as I recall,
 04 53 53PM 7 there was a reservation about whether or not any
 04 53 57PM 8 audio that contained statements by somebody other
 04 54 00PM 9 than Mr. Ray would be admissible subject to a
 04 54 03PM 10 proper foundation.

04 54 05PM 11 With respect to this excerpt, I will lay
 04 54 07PM 12 a proper foundation. It is not hearsay. I'm not
 04 54 10PM 13 offering it to prove the truth of the matter
 04 54 12PM 14 asserted. And through this witness I will lay the
 04 54 14PM 15 appropriate foundation to play it.

04 54 18PM 16 THE COURT: And I only mentioned that as it
 04 54 20PM 17 stood under 803(3), I did not believe it would be
 04 54 23PM 18 admissible. It would not meet the exception if it
 04 54 27PM 19 were being offered for the truth. I didn't go into
 04 54 30PM 20 that. But if it's not being offered for the truth.

04 54 32PM 21 Ms. Do?

04 54 35PM 22 MS. DO: Your Honor, I still believe it's
 04 54 36PM 23 hearsay. We've had some discussion about the
 04 54 38PM 24 hearsay rule earlier. It's an out-of-court
 04 54 42PM 25 statement by one of the decedents. I'm not sure

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04 54 44PM 1 exactly sure what Ms. Polk is offering it for if
 04 54 47PM 2 it's not being offered for the truth of the matter
 04 54 48PM 3 asserted. It relates to a particular experience
 04 54 50PM 4 that Ms. Brown had during the Samurai event.

04 54 53PM 5 So I'm -- I'm at a loss as to what the
 04 54 56PM 6 proffer is, then, if it's not to establish that she
 04 54 59PM 7 experienced that particular experience.

04 55 02PM 8 THE COURT: Well, I really want to minimize
 04 55 05PM 9 sidebars. So this is the context to talk about
 04 55 07PM 10 this. And I know it would have to come in with
 04 55 12PM 11 some kind of limiting instruction. If it's not
 04 55 14PM 12 being offered for the truth, I think it's important
 04 55 17PM 13 to let the jury know it's not being offered for the
 04 55 20PM 14 truth.

04 55 20PM 15 And I've just gone on sometimes and done
 04 55 23PM 16 a bit of an explanation about hearsay. I prefer
 04 55 26PM 17 not to get into that too much. I want to have a
 04 55 30PM 18 concise instruction if it's going to come in for an
 04 55 33PM 19 appropriate person. The 105 instruction should be
 04 55 36PM 20 there.

04 55 37PM 21 Ms. Polk.

04 55 37PM 22 MS. POLK: Your Honor, by definition a
 04 55 41PM 23 statement that is not being offered for the truth
 04 55 43PM 24 is not hearsay. I know the Court knows that.

04 55 45PM 25 THE COURT: That's what I'm saying. But I
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04 55 46PM 1 need to know what the purpose might be so I can
 04 55 48PM 2 make a ruling on it.

04 55 50PM 3 MS. POLK: This is a -- this -- this occurs on
 04 55 53PM 4 Thursday morning. This is an open group -- an
 04 55 56PM 5 open-mic session led by Mr. Ray with all of his
 04 56 00PM 6 participants after they have come in off of the
 04 56 00PM 7 Vision Quest.

04 56 03PM 8 And Kirby Brown, who is one of our
 04 56 06PM 9 deceased victims, takes the mic. And at the mic
 04 56 10PM 10 she explains her great discomfort that she suffered
 04 56 15PM 11 during the Samurai Game that had been played on
 04 56 18PM 12 Tuesday. Foundation will be laid through Jennifer
 04 56 21PM 13 Haley about what happens to Kirby Brown during the
 04 56 21PM 14 Samurai Game.

04 56 26PM 15 But in a nutshell, very early on Kirby is
 04 56 28PM 16 pronounced dead by Mr. Ray. And then she has to
 04 56 32PM 17 lay on the floor for the next five hours or so very
 04 56 35PM 18 similar to Melissa Phillips. During that time
 04 56 38PM 19 she's not allowed to use the restroom.

04 56 40PM 20 What she -- what Jennifer will testify --
 04 56 43PM 21 Ms. Haley will testify to is that she was aware
 04 56 46PM 22 that Kirby Brown was very, very upset after that
 04 56 50PM 23 Samurai Game experience. Jennifer had -- Ms. Haley
 04 56 53PM 24 had some interaction with her when the code of
 04 56 56PM 25 silence was finally -- actually, the code of

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04 56 57PM 1 silence was not lifted.
 04 56 58PM 2 But between the -- during that transition
 04 57 02PM 3 from the Samurai Game to going out on the Vision
 04 57 05PM 4 Quest, the code of silence was not lifted. But
 04 57 08PM 5 Ms. Haley and Kirby Brown had an interaction where
 04 57 12PM 6 Ms. Haley will testify that Kirby was visibly very
 04 57 15PM 7 upset.

04 57 15PM 8 They go out on the Vision Quest and then
 04 57 17PM 9 on Thursday morning after they've had breakfast,
 04 57 20PM 10 they gather together. There's this open -- this
 04 57 23PM 11 large group session, open-mic session, where Kirby
 04 57 27PM 12 Brown takes the mic and talks about that
 04 57 30PM 13 discomfort.

04 57 31PM 14 It's relevant because we are not offering
 04 57 33PM 15 it to prove that she was, in fact, uncomfortable.
 04 57 37PM 16 It's being offered to prove that this is Kirby
 04 57 40PM 17 Brown's state of mind as she enters the sweat
 04 57 43PM 18 lodge. She talks about her determination to
 04 57 46PM 19 persevere, to push through the pain and the
 04 57 48PM 20 discomfort, and to do whatever it takes to
 04 57 54PM 21 continue, essentially to -- to follow along this
 04 57 57PM 22 path toward enlightenment.

04 57 59PM 23 And more specifically, she reveals that
 04 58 03PM 24 during the five hours that she was lying there,
 04 58 05PM 25 that she wasn't moving, that she was in pain, that
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04 58 08PM 1 she actually vomited. And rather than violate the
 04 58 11PM 2 rules -- or rather than violate Mr. Ray's rules,
 04 58 14PM 3 she swallowed back her -- what she had
 04 58 20PM 4 regurgitated.

04 58 21PM 5 But it's relevant because -- for two
 04 58 22PM 6 reasons. It goes to Kirby's state of mind -- this
 04 58 26PM 7 victim -- when she enters the sweat lodge. This
 04 58 29PM 8 determination that no matter how uncomfortable, no
 04 58 33PM 9 matter how difficult, even if it's something as
 04 58 37PM 10 challenging as having vomited, she's going to
 04 58 40PM 11 swallow it back up so that she can stay on this
 04 58 43PM 12 course, this path, laid out by Mr. Ray -- this path
 04 58 47PM 13 toward enlightenment.

04 58 48PM 14 It also goes to Mr. Ray's state of mind,
 04 58 51PM 15 what he knows because he is at this session. This
 04 58 55PM 16 is a -- Kirby at the mic with Mr. Ray listening to
 04 59 00PM 17 it. He hears -- barely an hour to two hours before
 04 59 05PM 18 Kirby Brown goes into the sweat lodge, he had just
 04 59 09PM 19 heard Kirby publicly talk about how determined she
 04 59 13PM 20 is to follow his guidance on this path.

04 59 18PM 21 And so it's relevant for both of those
 04 59 24PM 22 purposes to show Kirby Brown's state of mind, her
 04 59 28PM 23 absolute steely determination to persevere through
 04 59 31PM 24 the pain and suffering, to do as he had instructed
 04 59 31PM 25 so that he -- she can have this experience toward

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04 59 34PM 1 enlightenment. And it goes to what Mr. Ray knows
 04 59 37PM 2 about this person who ultimately dies in the sweat
 04 59 40PM 3 lodge, who is the victim in the manslaughter
 04 59 43PM 4 charge.

04 59 43PM 5 It's not offering it to be -- to prove
 04 59 45PM 6 that she suffered. It's offering -- it's being
 04 59 48PM 7 offered for her state of mind and then what the
 04 59 52PM 8 defendant knows when she is inside the sweat lodge.

04 59 56PM 9 THE COURT: All right. Regrettably, I'm going
 04 59 57PM 10 to have to stop this evening. We've taken Mina
 05 00 00PM 11 past -- well past the 90 minutes.

05 00 05PM 12 Here's my conclusion right now: We'll
 05 00 07PM 13 take this up in the morning. For the latter
 05 00 10PM 14 purpose, when I said exception, it's always an
 05 00 13PM 15 exception to hearsay. It means really it isn't --
 05 00 16PM 16 it isn't hearsay if it's not offered for the truth
 05 00 19PM 17 as Ms. Polk pointed out and stated.

05 00 23PM 18 But the way I see it right now, the first
 05 00 27PM 19 way you've described it, Ms. Polk, it's right under
 05 00 31PM 20 803(3) because it would be coming in for the truth
 05 00 34PM 21 of what's remembered. We have a different witness
 05 00 36PM 22 who may have direct observations about what
 05 00 38PM 23 happened.

05 00 38PM 24 With regard to the second aspect, that, I
 05 00 41PM 25 believe, would be a legitimate reason to offer the
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05 00 44PM 1 evidence. And it would take a -- a limiting
 05 00 47PM 2 instruction to know it could only be considered
 05 00 51PM 3 with regard to the -- to Mr. Ray's state of mind.

05 00 56PM 4 But I'm going to give you a chance -- now
 05 00 57PM 5 that you know where I am, both parties, that can be
 05 01 00PM 6 addressed with -- with further argument tomorrow
 05 01 02PM 7 morning.

05 01 03PM 8 MS. DO: Thank you, Your Honor.

05 01 04PM 9 THE COURT: We'll be in recess. Thank you.
 10 (The proceedings concluded.)
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1 STATE OF ARIZONA)
2 COUNTY OF YAVAPAI) ss REPORTER'S CERTIFICATE

3
4 I, Mina G Hunt, do hereby certify that I
5 am a Certified Reporter within the State of Arizona
6 and Certified Shorthand Reporter in California

7 I further certify that these proceedings
8 were taken in shorthand by me at the time and place
9 herein set forth, and were thereafter reduced to
10 typewritten form, and that the foregoing
11 constitutes a true and correct transcript.

12 I further certify that I am not related
13 to, employed by, nor of counsel for any of the
14 parties or attorneys herein, nor otherwise
15 interested in the result of the within action

16 In witness whereof, I have affixed my
17 signature this 30th day of March, 2011

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MINA G HUNT, AZ CR No 50619
CA CSR No. 8335

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1 STATE OF ARIZONA)
2 COUNTY OF YAVAPAI) ss: REPORTER'S CERTIFICATE
3

4 I, Mina G. Hunt, do hereby certify that I
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25 CA CSR No. 8335